PIUS XII—
RIGHTEOUS GENTILE?
DAVID G. DALIN

the weekly
Standard

FEBRUARY 26, 2001

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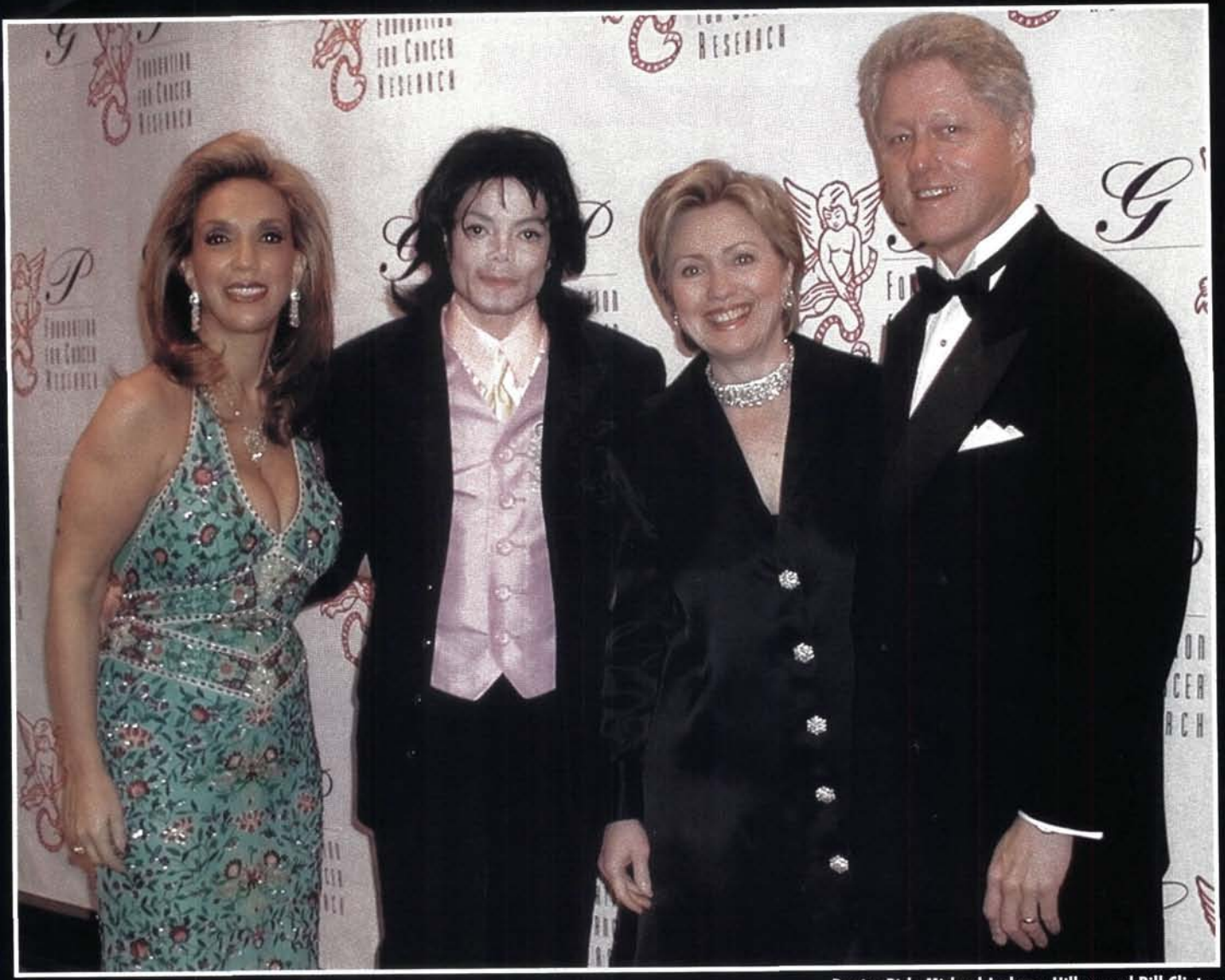

Denise Rich, Michael Jackson, Hillary and Bill Clinton

Why Move On?

This is too much fun

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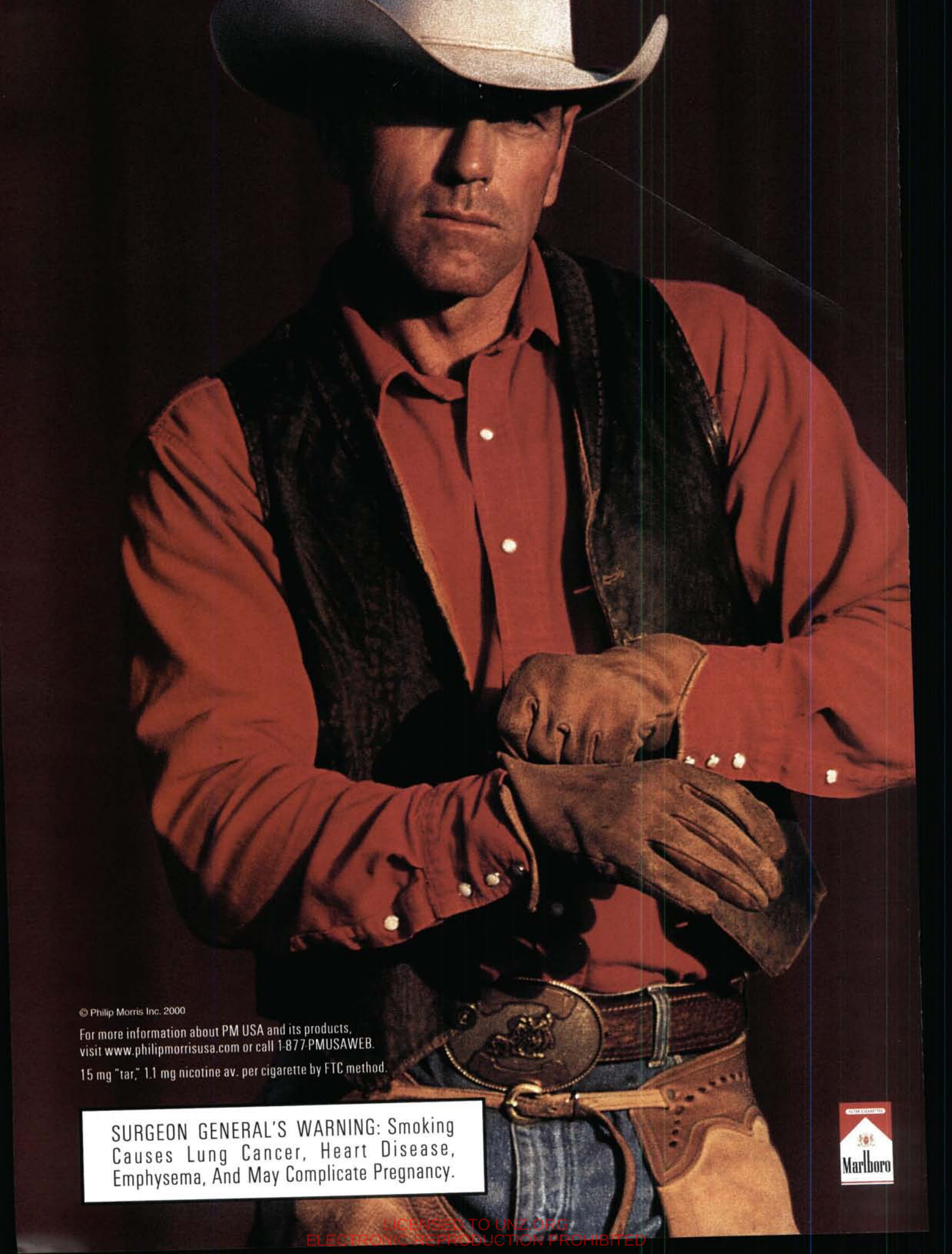

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The Speech Maureen Dowd Hated

Justice Clarence Thomas delivered a bracing lecture last week at the annual American Enterprise Institute dinner. The recipient of the think tank's prestigious Francis Boyer award, Thomas delighted conservative Washington with his remarks and appalled Maureen Dowd, who called the address "self-pitying," "self-aggrandizing," and "bellicose" in her *New York Times* column the next day. From the paper that thinks the only good conservatives are the ones who lose graciously, that counts as high praise, so here are some excerpts:

***

It goes without saying that we must participate in the affairs of our country if we think they are important and have an impact on our lives. But how are we to do that? In what manner should we participate?

Today, there is much talk about moderation. . . . I do not believe that one should fight over things that don't really matter. But what about those things that do matter? It is not comforting to think that the natural tendency inside us is to settle for the bottom, or even the middle of the stream.

This tendency, in large part, results from an overemphasis on civility. None of us should be uncivil in our manner as we debate issues of consequence. No matter how difficult it is, good manners should be routine. However, in the effort to be civil in conduct, many who know better actually dilute firmly held views to avoid appearing "judgmental." They curb their tongues not only in form but also in substance. The insistence on civility in the form of our debates has the perverse effect of cannibalizing our principles, the very essence of a civil society.

That is why civility cannot be the governing principle of citizenship or leadership. As Gertrude Himmelfarb observed in her book *One Nation, Two Cultures*, "To reduce citizenship to the modern idea of civility, the good-neighbor idea, is to belittle not only the political role of the citizen but also the virtues expected of the citizen—the 'civic virtues,' as they were known in antiquity and in early republican thought."

These are the virtues that Aristotle thought were necessary to govern oneself like a "freeman"; that Montesquieu referred to as the "spring which sets the republican government in motion"; and that the Founding Fathers thought provided the dynamic combination of conviction and self-discipline necessary for self-government.

Gertrude Himmelfarb refers to two kinds of virtues. The first are the "caring" virtues. They include "respect, trustworthiness, compassion, fairness, decency." These are the virtues that make daily life pleasant with our families and those with whom we come in contact.

The second are the vigorous virtues. These heroic virtues "transcend family and community and may even, on occasion, violate the conventions of civility. These are the virtues that characterize great leaders, although not necessarily good friends."

She notes that the vigorous virtues have been supplanted by the caring ones. Though they are not mutually exclusive or necessarily incompatible, active citizens and leaders must be governed by the vigorous rather than the caring virtues. We must not allow our desire to be decent and well-mannered people to overwhelm the substance of our principles or our determination to fight for their success. Ultimately, we should seek both caring and vigorous virtues—but above all, we must not allow the former to dominate the latter.

Again, by yielding to a false form of "civility," we sometimes allow our critics to intimidate us. As I have said, active citizens are often subjected to truly vile attacks; they are branded as mean-spirited, racist, Uncle Tom, homophobic, sexist, etc. To this we often respond (if not succumb), so as not to be constantly fighting, by trying to be tolerant and nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best. . . .

Pope John Paul II has traveled the entire world challenging tyrants and murderers of all sorts, speaking to millions of people, bringing them a single, simple message: "Be Not Afraid."

He preached this message to people living under Communist tyranny in Poland, in Czechoslovakia, in Nicaragua, and in China—"Be not afraid." He preached it to Africans facing death from marauding tribes and murderous disease—"Be not afraid." And he preached it to us, warning us how easy it is to be trapped in a "culture of death" even in our comfortable and luxurious country—"Be not afraid."

Listen to the truths that lie within your hearts, and be not afraid to follow them wherever they may lead you.

Those three little words hold the power to transform individuals and change the world. They can supply the quiet resolve and unvoiced courage necessary to endure the inevitable intimidation. . . .

The Founders warned us that freedom requires constant vigilance, and repeated action. It is said that, when asked what sort of government the Founders had created, Benjamin Franklin replied that they had given us "A Republic, if you can keep it." Today, as in the past, we will need a brave "civic virtue," not a timid civility, to keep our republic. So, this evening, I leave you with the simple exhortation: "Be not afraid." ♦

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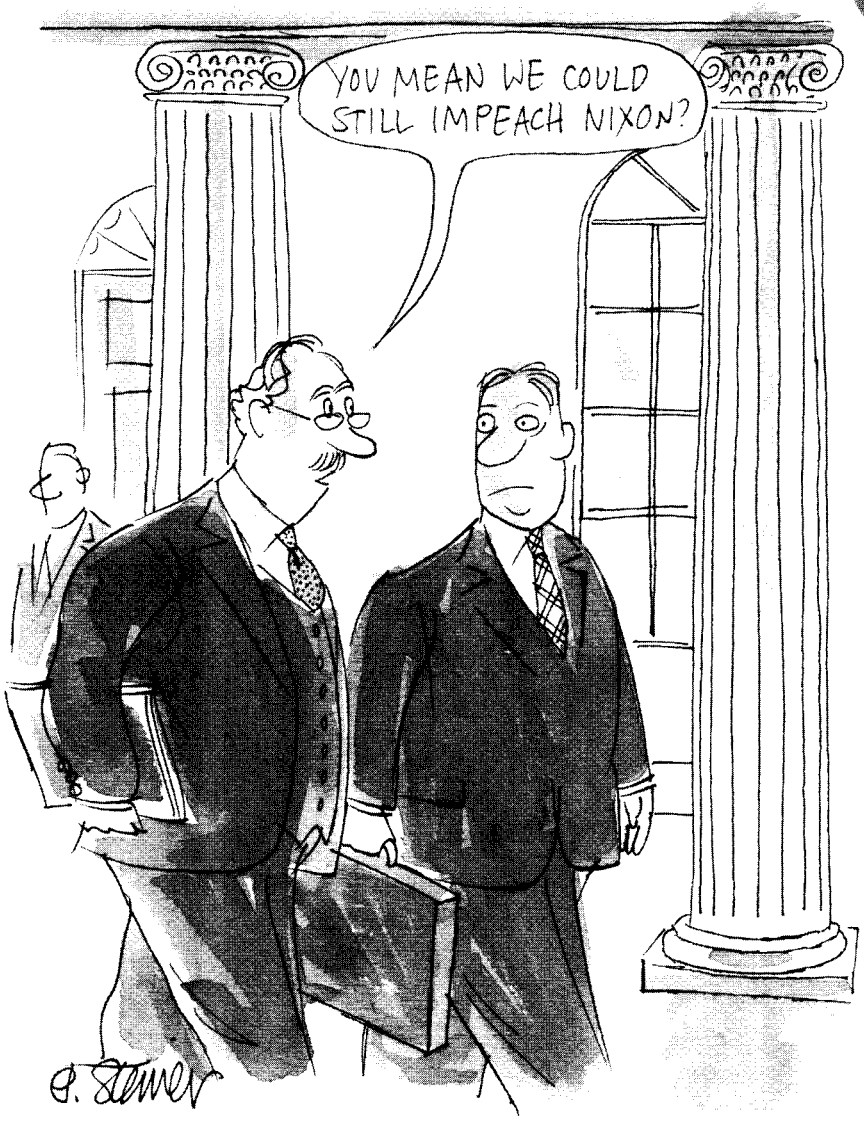

Mary, We Hardly Knew Ye

We were under the impression, mistaken it turns out, that Mary Matalin, former host of *Crossfire* and now a top adviser to Vice President Cheney, is a squish on abortion. Usually identified as a GOP "moderate," which is code for pro-choice, Matalin says it ain't so and never has been. "I've always been pro-life," she tells THE SCRAPBOOK. She strongly rejects the feminist notion that having the right to choose "validates your womanhood." How, she asks, can "being able to abort a baby validate your womanhood?"

Matalin not only says the *Roe* v. *Wade* decision was "bad law," she argues that women should be required to have a sonogram before having an abortion. "That's better than 'informed consent.' Even before babies are shaped, you see that little heart. It's a baby, not a blob." Matalin insists she's "not a moderate. The only thing I'm libertarian on is gays. On everything else, I'm to the right of Attila the Hun." ♦

Horrific Days Are Here Again

You heard it here first. Andrew Ferguson predicted a month ago in these pages that the return of Republicans to the White House would mean "the reemergence of all kinds of things we haven't seen since—well, since the old President Bush was in the White House. Avarice and selfishness are just the beginning. Say hello to homelessness, for instance: We are about to see a horrifying deterioration in the plight of our nation's street people. We haven't heard much—anything, really—about the homeless since, oh, roughly January 20, 1993. As it happens, the number of people living on steam grates has remained pretty much constant from the middle 1980s, when they filled the airwaves and graced the cover of countless magazines, to the present day, when they are all but forgotten. They are about to be remembered."

As if on schedule, the *Washington Post* ran a front-page story on February 16, "Indicators Show D.C. Homelessness Getting Worse." The two photos accompanying the article showed Nancy Hill, "who said she . . . has been homeless for three years" and James Johnson, "homeless for five years." Now they tell us. ♦

Geography for Anchors

Talking about Bill Clinton's post-presidential office dilemma, Dan Rather said on the *CBS Evening News* the other night that the choice came down to "Manhattan or Harlem." Good thing a Republican didn't say that; it would have been hate speech. It's probably presumptuous of a Washingtonian like THE SCRAPBOOK to point this out, Dan, but that island you live on stretches a bit farther north than you realize. Next time you're headed uptown, tell your driver to keep going. A couple of miles past where your friends live, you'll reach Harlem. And you'll still be in Manhattan!

Next week's lesson: The Bronx is up and the Battery is down. ♦

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Casual

The Eppy and Other Jackets

My idol in matters sartorial is that great villain of American literature Gilbert Osmond, of Henry James's *Portrait of A Lady*, who, James tells us, "was dressed as a man dresses who takes little other trouble about it than to have no vulgar things." Searching my own wardrobe for vulgar things, I come up with a bright red shirt I sometimes sleep in, size XL, that reads "FUBU Sports, Since 1992, Varsity Athletic, Basketball," all in raised letters, with an orangeish chenille basketball in the center. It's a shirt whose putatively short sleeves are so long as to make my arms while wearing it seem slightly thalidomidic. This, I do believe, might qualify as just a touch vulgar.

Otherwise I am a perfect fop of respectability. I buy most of my clothes at Brooks Brothers, a store that was practically a cult when I was young and has by now been so long on the slippery slope of mediocrity that it ought to require its salesmen to carry a set of *piolets*. I also buy clothes at a local haberdashery called Huntley's, which has the world's best tailor, Mr. Bab, whose full Assyrian name is Babajon Badalapour. Mr. Bab is a genius, and if he were a cosmetic surgeon instead of a tailor, you'd no longer recognize me, so good would I look.

My wardrobe is the fairly standard one, one blue suit, a couple of grey ones, a tuxedo, a blue blazer, a seersucker jacket, four tweedyish sports coats, the usual grey trousers and chino pants, no jeans whatsoever, white, blue, and blue-and-white striped shirts, and various neckties to lend a splash of color at an older gent's throat.

A perfect fop of respectability, as I say, except for a longstanding penchant I have for jackets. I cannot remember being without a favorite jacket. In grade school I acquired a light blue cotton jacket with dark blue knit collar, cuffs, and waistband. So much did I wear this jacket that friends came to refer to it as an Eppy jacket. In high school I had an Air Force flight jacket, with epaulets and clip pockets, that I wore through three Muscovite-like Chicago winters, vanity in those days easily prevailing over the need for warmth. In me, I have to report, vanity still prevails. I'm with Jules Renard here, who in his *Journal* noted: "It's many a day since I've felt ashamed of my vanity, or tried to correct it. Of all my faults, it's the one that amuses me most."

Darren Gygi

I went to an intensely social high school where the students were organized into perhaps forty or so clubs, each with its own jacket in the club's colors. Walking the school halls one gazed out upon billows of variously colored rayon and wool. During my years there I wore the black and yellow jacket of the Iaetas, the red and black of the Ravens, and the green and white of Alpha. These jackets were worn in class, and, if one was going steady, one's girl wore one's jacket as a public show of her affection.

I always owned a windbreaker. (*Wind-cheater*, the word the English use, seems to me better, as the English *jumper* feels a better choice than sweater.) The first windbreaker I can recall feeling a strong attachment to was a little number put out by the firm of Aquascutum; it had a rounded collar with a button flap and a plaid lining. I first saw it on a boy three or so years older than I named Jerry Dash—excellent name for a guy who himself seemed dashing. I owned the jacket first in khaki, and when that wore out, I bought a second one in blue. (Sorry to be so poor on colors, but I not long ago read a poem called "Men Know Brown," the opening of which reads: "On the radio this morning: the average woman knows / 275 colors—and men know eight." Too true.)

Ten or so years ago the owner of Huntley's offered me a costly leather jacket, the last he had in stock, for half price. The rich color of Godiva's dark chocolate, it was as softly flexible as an Italian glove, and an exact fit. I wore it for a decade, until its cuffs began to unravel, and then, head turned away in sorrow, dropped it down the garbage chute.

I go about nowadays swathed—that's the verb that always comes to mind when I wear it—in a navy blue jacket of softest cashmere that I bought roughly six months ago. Lightweight yet very warm, it has a zipper front and buttons, with a placard over both, with a nice collar, perfect detailing, and no label other than "100 percent Cashmere, Dry Clean Only." Expensive though it is, I justified buying it—penetrating economist that I am—by concluding that if I wore it a thousand times, which I hope to be able to do, it will cost only a little more than 40 cents each time I wear it. A bargain, clearly. A bit long in the sleeves, it was fixed by Mr. Bab, seamlessly. Gilbert Osmond would marry a second rich American heiress to own this jacket, but, bad news Gil, no more are in stock.

Joseph Epstein

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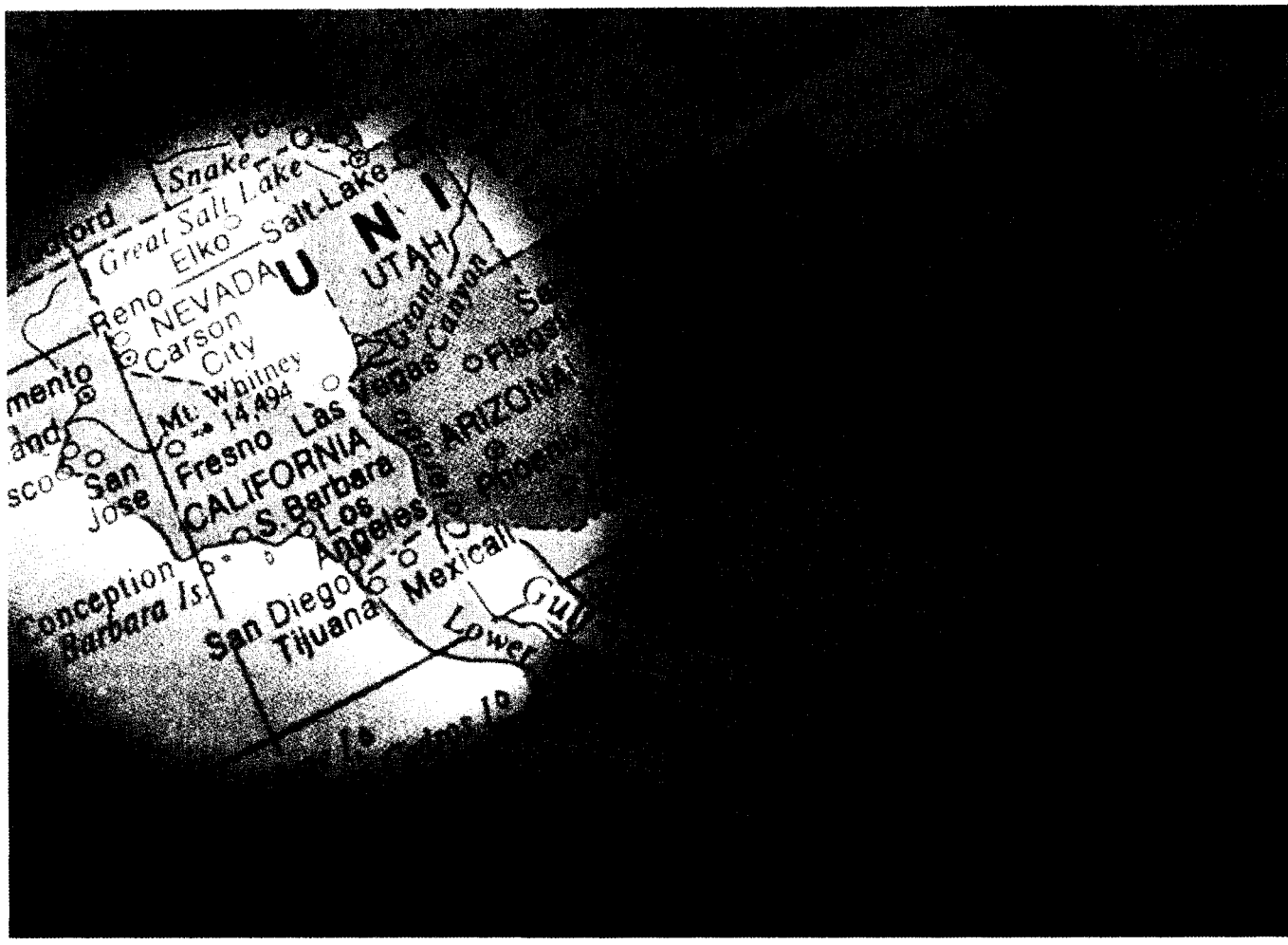
POWER STRUGGLE.



As California struggles with blackouts, other western states strive to meet growing electricity demands. It's time for America to encourage the construction of new electric generation utilizing all of America's diverse energy resources including power plants that generate electricity from coal. And with coal reserves that will last for 250 years, electricity from coal will be a reliable and affordable energy resource long into the future.

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Culture Critics

I deeply appreciate The Weekly Standard's giving such prominence to Gilbert Meilaender's review of my book *Culture of Death: The Assault on Medical Ethics in America* ("Bioethics vs. Human Dignity," Feb.12). One of the primary objectives I have for the book is to stimulate a wider discussion of bioethics among the general public, particularly since it is they who will suffer the consequences of the changes the bioethics movement is making in medicine and health care public policy.

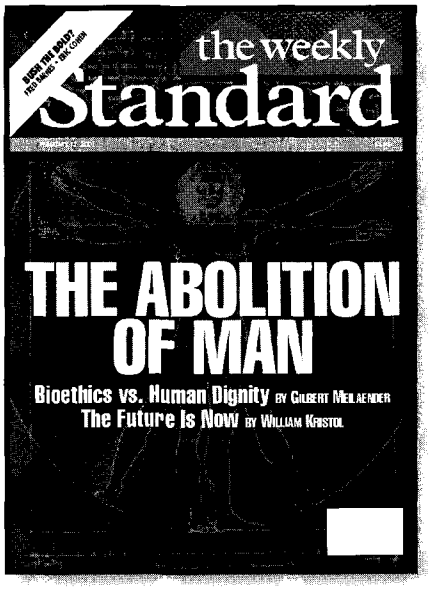
While I don't entirely agree with all of Meilaender's comments, I appreciate his thoughtful critique. However, I must directly respond to Meilaender's criticism of me for quoting bioethics pioneer Daniel Callahan as writing in the early 1980s that "a denial of nutrition may in the long run become the only effective way to make certain patients actually die. Given the increasingly large pool of superannuated, chronically ill, physically marginalized elderly it could well become the nontreatment of choice." Meilaender claims that in citing that passage, I was not "fair," and left a false impression because Callahan stated in the essay from which it was taken that he did not want dehydration of marginalized patients to become routine.

My inclusion of the quotation was proper and not at all misleading—about either the issue of dehydration or Callahan. First, the quotation is entirely accurate and speaks rather eloquently for itself. Second, I did not recite the quotation in my book in order to criticize Callahan personally. Rather, I included it because the precise circumstances that he predicted have come to pass, e.g. intentional dehydration of helpless patients is now "the nontreatment of choice" in medicine. Indeed, as Meilaender acknowledges in another part of his review, conscious and unconscious cognitively disabled people are made to die by intentional withholding of tube-supplied food and water almost as a matter of routine. Finally, in a telephone conversation I had with Callahan before writing that part of the book, he told me he no longer has significant reservations about dehydrating patients diagnosed with permanent unconsciousness. Thus, many of the concerns Callahan expressed nearly 20 years ago in the essay from which I quoted are no longer operative.

I do agree wholeheartedly with Meilaender that a healthy bioethics requires a richer version of "what is human than the language of choice can provide." This is a matter of great urgency and I look forward to joining with him and others to help create such a robust equality of life ethic.

Wesley J. Smith
Oakland, CA

Gilbert Meilaender did well to praise Wesley Smith's *Culture of Death*, a compelling exposé of how elite bioethicists are undermining "the core



value of Western civilization: that all human beings possess equal moral worth." Meilaender, however, missed an opportunity to emphasize how this must-read book sounds the alarm on such outrages as "futility theory," making it impossible for many patients to receive the care they need and want, animal rights activists using arcane bioethical principles to define away the humanity and rights of disabled people, and the state of Oregon denying payment for needed care on its rationed health plan while funding assisted suicide for the poor.

Instead, Meilaender chose to defend his friends and himself—for he, too, holds a university ethics chair—by quibbling and niggling about the innocence of those who claim credit for the new ethics. As Smith so clearly demonstrated, quibbling at the edges of life and death issues is the very technique bioethicists use to erode the basis of American freedom outlined in our Declaration of Independence, a belief that all people are created equal. We need ethicists to take a stand for clarity and compassion and life. We don't need them to quibble away our rights and our lives. Meilaender spoke well when he admitted Smith is "on the side of the angels." It is not so clear where Meilaender is taking his stand.

N. Gregory Hamilton
Portland, OR

Writing Back Right

The explanation for our "scant, lumpish vocabulary" described by Tracy Lee Simmons in "Writing Right" (Feb. 12) is that children are not taught to read by phonics, so they are unable to read big words. Of course they can't spell, and grammar is not taught at all.

Look at the children's books in any bookstore and you will find them filled with one-syllable words, especially words that can be illustrated. It's not just the disadvantaged who suffer from this lack of teaching. Every week I meet college graduates who complain of their difficulty in reading big words. If a child is not taught to sound out the syllables of the English language and put them together like building blocks, he will never be able to read the thousands of big words that make English such a rich and beautiful language that can speak to us with eloquence and precision.

Phyllis Schlafly
St. Louis, MO

As someone who possesses 20/20 hindsight, I'd like to suggest that the title and underline on the review of my book *Word Court* and Bill Walsh's *Lapsing into a Comma* should not have been "Writing Right: A pair of recent books get it wrong" but rather "Writing Wrongs? A pair of recent books get it right." The review itself praised the books—as its author assures me he intended to do.

Barbara Wallraff
Boston, MA

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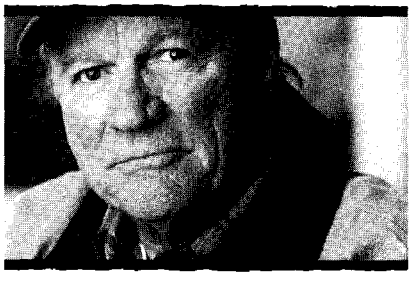

The **PORTMAN-CARDIN** legislation provides incentives for small businesses to establish pensions. It allows workers to increase contributions to their plans, an important step for those who want to take more responsibility for their retirement security. The legislation also allows working people over 50 to make additional "catch-up" contributions to their retirement savings plans, another great advantage for working women.

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Pregnant Women and their Babies: Drug War Casualties?

Despite overwhelming medical consensus that pregnant drug users should have access to health care, calls for criminalization and separation of mothers from their newborns continue. Punitive approaches that stigmatize pregnant drug users undermine women and children's health, threaten a range of civil rights and liberties, and dangerously expand the war on drugs. Moreover these approaches are based on dangerous myths:

***MYTH #1:* All Drug-exposed children are seriously damaged at birth.**

FACT: Women who can't abstain completely from drugs, can give birth to healthy children especially if they have access to prenatal care.[1] While some newborns do experience adverse short or long-term consequences from a variety of legal and illegal substances, the sensational news reports about crack that fueled the call for criminalization have not been substantiated. Research has found that crack-exposed children are not doomed to suffer permanent mental or physical impairment,[2] and that whatever effects may exist are greatly overshadowed by poverty's impact on brain development.[3]

***MYTH #2:* Women who use drugs can simply stop.**

FACT: Sudden withdrawal from some drugs can be dangerous to the woman and her pregnancy.[4] Moreover, because addiction is a chronic relapsing condition, it is unrealistic to expect anyone to overcome a drug problem instantaneously or without support. The success and cost-effectiveness of drug treatment is well documented but there is a severe lack of appropriate treatment for women.[5]

***MYTH #3:* Threatening pregnant women who use drugs with criminal penalties or loss of custody protects their children.**

FACT: There is overwhelming medical and public health agreement that punitive approaches will not work because they deter women from seeking prenatal care and drug treatment and undermine the trust essential to the healthcare provider-patient relationship.[6] Calls for punishment unfairly stigmatize both women and children and distract from the real issue: lack of commitment to meaningful drug treatment and reproductive health care for women in this country.

Expectant Mothers Deserve Compassionate Health Care - Not Prison!

1 Andrew Racine et. al., *The Ass'n Between Prenatal Care and Birth Weight Among Women Exposed to Cocaine in New York City,* 270 JAMA 1581, 1585-86 (1993).
2 Deborah A. Frank *et al., Maternal Cocaine Use: Impact on Child Health and Development,* 40 Advances in Pediatrics 65, 92 (1993).("[t]o date no hypothesized or demonstrated effect of in utero-cocaine exposure has been found to be specific to that drug. No studies have shown that prenatal cocaine exposure causes unique developmental dysfunction." See also, Linda C. Mayes et al., *The Problem of Prenatal Cocaine Exposure: A Rush to Judgment,* 267 JAMA 406 (1992).
3 Hallam Hurt et al., *Problem-Solving Ability of Inner-City Children With and Without In Utero Cocaine Exposure,* 20 Dev. & Beh. Pediatrics 418 (Dec. 1999).
4 See Center for Substance Abuse Treatment, Pregnant, Substance-Using Women 6 (1993) (U.S. Dept. of Health & Human Servs.Publication No. (SMA) 93-1998), 19, 26.
5 Id.; Charles Marwick, *Physician Leadership on National Drug Policy Finds Addiction Treatment Works,* 279 JAMA 1149 (1998); Drug Strategies, *Keeping Score, Women And Drugs: Looking at the Federal Drug Control Budget* 16-17 (1998); Vicki Breitbart et al., *The Accessibility of Drug Treatment for Pregnant Women: A Survey of Programs in Five Cities,* 84 Am. J. Pub. Health 1658 (1994).
6 American Academy of Pediatrics, Committee on Substance Abuse, *Drug Exposed Infants,* 86 PEDIATRICS 639, 641 (1990); American Medical Association Board of Trustees, *Legal Interventions During Pregnancy,* 264 JAMA 2663, 2667 (1990); March of Dimes, Statement on Maternal Drug Abuse (1990): Center for the Future of Children, *Recommendations,* in The Future of Children 8 (Richard F. Behrman ed., 1991).

For more information on pregnant women and drugs contact:
National Advocates for Pregnant Women *www.NAPW.Net * NAPW1@aol.com* or
Common Sense for Drug Policy at *www.csdp.org, info@csdp.org*, 703-354-9050, Kevin B. Zeese, President

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the weekly Standard

Unpardonable

Nobody in the White House or Justice Department appears to have known who Tom Bhakta was. Not really. They didn't know where he lived, so the address boxes on all the relevant forms were left blank. They didn't even know how to spell his name; it came out "Bhatka" on both the president's executive order and the DOJ clemency warrant that order generated. But despite such confusion, and helped along by it, too, Tom Bhakta of Bentonville, Arkansas, convicted in 1991 of federal income tax evasion, secured an absolute and perpetual pardon for his crimes. As did 175 other men and women with checkered legal pasts, all during the frantic werewolf hours of Bill Clinton's final half-day in public office.

There are more than a few people on this list—the infamous billionaire fugitive Marc Rich is only one of them—who seem altogether preposterous candidates for presidential grace. There are several dozen people on the list, indeed, for whom a pardon would have been all but impossible had not Clinton engineered a surreptitious, months-long campaign to circumvent his own official policy on clemency procedures. That circumvention since exposed, the country is now treated to another major revival of His Usual Scandal, words, music, and cast essentially unchanged.

Imputations of personal and political financial corruption are made. A criminal probe gets underway. The responsible Clinton appointee at the Justice Department, Eric Holder, attempts to deflect criticism of his acquiescence in the White House pardon scheme by complaining that he was kept largely in the dark about the whole thing until it was too late—which isn't entirely true. In the Washington super-fixer role made famous by Vernon Jordan, former White House counsel and current Marc Rich hireling Jack Quinn proclaims that everything was by the book, on the merits, clean as a whistle: "The process I followed was one of transparency"—which is laughably false. Substituting for the indisposed Maria Hsia, Denise Rich invokes her Fifth Amendment right against self-incrimination. David Kendall, who is ageless, promises he will litigate to the death any attempt to subpoena key documents spirited out of the White House to Little Rock on Inauguration Day.

And the former president? He did not have sexual relations with that pardon, and he did not ask anyone to lie about it, not once, never: "There's not a single, solitary shred of evidence that I did anything wrong," he fumes. He only tried to "go out there and do what past presidents have done." Unfortunately, "the Republicans had other plans for me," which, as you know, is their vast, right-wing custom.

Here, as always, Bill Clinton simply plays himself. Funny thing, though: Where until recently the very same performance invariably delighted his many fans and won at least grudging acceptance from the most influential newspaper reviewers, today, lickety-split, word of mouth on the Clinton show has turned horrible. Elected Democrats, almost to a man, are openly disgusted with their erstwhile leader. And the editorial pages are virtually beside themselves with rage. "Sordid" and "inexcusable," thunders the *New York Times*. A "constitutional abuse" of "breathtaking irresponsibility."

Hard to disagree with that. But hard not to conclude, as well, that there's something rather peculiar about the membership and intensity of this post-pardon Anti-Clinton League. Exactly what's the point, for example?

Granted, where the aroma of crime attaches to a president, the law must be enforced both for its own sake and for history's. And once again Clinton smells a fair bit, this time of something like bribery. Denise Rich gave well over $1 million to various organizations controlled by the former president. She and Jack Quinn then used one of the people through whom she'd made those contributions, former Democratic National Committee finance chairman Beth Dozoretz, as a go-between with Clinton on the Marc Rich pardon. And two other such Rich-to-Clinton money funnels, now-DNC chairman Terry McAuliffe and Peter O'Keefe of the Clinton presidential library foundation, have since become principals in the retired president's pardon-related damage-control effort. One would not ordinarily expect to find fund-raising operatives so intimately connected to the exercise of a constitutional authority.

But. We don't think it all that likely that any explicit and therefore criminal quid pro quo will ever be discovered in Clinton's grant of clemency to Marc Rich or anyone else, especially given the code of *omertà* that generally surrounds this most shadowy and secretive of presidents. What's more, we don't think the question of technical criminality should any longer be the paramount concern.

Consider: Round about the time Tom Bhakta began plotting his own pardon last October, he and his immediate family gave $5,000 to Hillary Clinton's New York Senate campaign. But before those checks were drafted, Bhakta had somehow already gleaned that he would be allowed to bypass standard vetting procedures at the Justice Department and ship his clemency petition right to the West Wing.

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"Beginning last fall," according to the *New York Times*, "the notion began to circulate among potential applicants that the White House might be receptive to direct proposals for pardons, said current and former government officials, pardon applicants, and lawyers. The result, these people said, was a mad search around the country for lawyers with contacts in the Clinton administration."

The phenomenon has since been confirmed by the *Los Angeles Times* in the course of its excellent reporting on Carlos Vignali, another Clinton pardonee. Vignali was released from prison less than halfway through his 15-year sentence for organizing a large-scale cocaine trafficking network. "How'd you get out?" his astonished lawyer asked him. "Word around prison was that it was the right time to approach the president," Vignali replied.

Unbelievable, no? And though it is legal—for a president may confer clemency whichever way and to however many unrepentant drug dealers he pleases—does such connivance not by itself constitute a violation of that president's constitutional oath and a major abuse of power?

Which is the "it" most Clinton neo-critics now insist Must Never Happen Again. There is talk on Capitol Hill of amending the Constitution to circumscribe the president's pardoning prerogative. We're inclined to believe this is a bad idea in its own right, and we're quite sure it is useless for present purposes. After all, any future president willing to ride roughshod over the founding document will by definition be a president none too scrupulously concerned with what that document says, whether or not we amend it. Senator Arlen Specter's embarrassingly frivolous notion that we might impeach Bill Clinton a second time similarly fails the test of utility. The search for foolproof prophylaxis against a recurrence of Clintonian anti-constitutionalism in the White House will not, alas, avail. The nation will go on as before, with only the vigilance of its citizens and their representatives to depend on.

And that's the rub. The Marc Rich affair represents a failure of such vigilance. Forget that it must never happen again, and remember that it needn't and shouldn't have happened in the first place. Some of those angriest with him today concede that this latest scandal is not at all anomalous, but rather, as the *Washington Post* puts it, "classic Clinton," consistent with the general pattern of his presidency. He was a man who abused his powers. It was obvious to some of us more than three years ago, when he stood accused of crimes much more thoroughly documented than any under investigation today, and when he was busy manipulating the executive branch of government into a personal palace guard. Had Bill Clinton then been removed from office, as we suggested, such abuses would have ended. But Arlen Specter and the *Washington Post* and a sizable majority of the voting public instead decided to pardon the president.

Now, by a parting pardon of his own, Clinton has mocked the indulgence of his one-time defenders and made them out for fools. We are not surprised that so many of them are hot about it. But, really: At some irreducible level, they have only themselves to blame.

—David Tell, for the Editors

Michael Ramirez

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Location, Location, Location

Clinton rents in Harlem. BY JAY NORDLINGER

New York

OH, HE'S A BEAUT, Clinton. Every week, he fascinates and appalls. But he is also a predictable man—even dully so. I wish I had called his move to Harlem; it seems so obvious now.

Clinton does it over and over: runs to black people when he gets into a jam. Many observers have remarked on this, as I did, in these pages, back in the Time of Monica. The civil rights veteran Roger Wilkins put it this way to me: "Clinton is a very shrewd character. He knows that his rapport with black people is terrific. He sees how black people react to him. And he knows that if he goes to see black people, he's going to get a warm bath." Moreover, Clinton has "a habit of using black people as props." And "he plays black people in a very sophisticated and cynical way: He uses black people to talk to white people."

Does he ever. The old hustler hasn't lost a step. His race card is always at the ready. And it's particularly important when the military card isn't available.

Clinton has had a rocky life in New York since he left office, in a shower of self-love. Many of his erstwhile friends and apologists have turned on him, or at least turned cold to him. His pardons stink like garbage. He and his wife took gifts they shouldn't have. And then there was the flap over his post-presidential offices.

He first had his eye on one of the city's fanciest buildings: Carnegie Hall Tower, on West 57th Street. And not just anywhere in the Tower—on the 56th floor, with "panoramic views of Central Park," as every journalist noted. Clinton pal Barry Diller, the media magnate, was a couple of floors down; another Clinton pal, editrix and buzz-mistress Tina Brown, had recently vacated the 56th. The Man from Hope would live the New York life. And could any other city accommodate a being of such appetites and stature? Said Ms. Brown to the *New York Observer*, "They [the Clintons—we're counting Hillary here, too] are natural New Yorkers. Washington is just too small for them."

The ex-president, despite his PR woes, has enjoyed a few high moments. He and another swinging bachelor, ex-senator Bob Kerrey, dined at Babbo, in Greenwich Village. Babbo is not the humblest place in town (despite the humble, Italian-peasant name); it is one of the "hottest," or "buzziest," as Tina might say. Clinton and Kerrey are not exactly old pals, either; in fact, they are old foes. They had a semi-bitter battle in the 1992 primaries, and Kerrey has described Clinton as "an unusually good liar." But they are now seen as something of a Damon-Affleck pair in New York. Kerrey is around—he was no more going back to Nebraska than Clinton was to Arkansas—as president of the New School for Social Research (which is so old now, it should perhaps ditch the "New").

Clinton has absorbed a little culture, too. On his second day in town, he showed up at the Metropolitan Opera, to hear Luciano Pavarotti in *Aida*. His sidekick and money-man, Terry McAuliffe, was with him. When the lights came up after Act I, the audience hailed Clinton, shouting "Bravo!" (Who says he's at home only in Harlem? But we're getting to that.) Afterward, he went backstage to grin and have pictures with Pavarotti—a kindred spirit, in certain ways.

He has had time for some golf, too, but not in New York, where winter hangs on: in Florida, at a Miami-area country club notorious for its . . . lack of diversity, to use the Clinton idiom. The club—Indian Creek (there are no Indians there)—has been characterized in the press as "all-white" or "anti-black," but this misses the mark: What it mainly is is anti-Jewish. There are a few token Semites there, like the investor Carl Icahn, but mainly it holds the line. Certain gentile members have quit the club in disgust (not at the presence of even a few tokens, but at the discrimination). The local mayor warned Clinton, who had played there once before, of Indian Creek's smelly stance. So, why would the ex-president risk offending two of his vital constituencies, Jews and blacks? He is a complicated man, Clinton: Harlem, the Met, Indian Creek. A coalition politician, for sure.

Back at home, Clinton was under fire for his Carnegie Hall Tower dalliance. And Pardongate. And Giftgate. The tabloids were having a field day with him, their newest "bold-face name" (a name that, on the gossip pages, is printed in bold, so that readers can easily spot it). He shared the front pages with Sean "Puffy" Combs, the gangster and rapper on trial for shooting up a nightclub. There are disturbing similarities between Clinton and "Puff Daddy": two men clearly guilty, but unbowed; rooted for by millions of New Yorkers—not all of them black—who regard them as victims; and a law, and a morality, unto themselves. "The Rev." Al Sharpton defends them both, and in the same language.

The Carnegie digs were proving a greater problem than Clinton must have anticipated. They would cost the government just under $1 million a year, and many people—some important—were choking. Clinton, in an early attempt at damage control, held a sidewalk news conference, at which he assured, "I'm not going to let the

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AP/Wide World Photos

Clinton on 125th Street in Harlem, February 13

taxpayers get gigged on this." But he went on to explain to the provincials of the land what life was all about in the big city: "I mean, it's New York! I also pay higher taxes in New York, and I'm glad to be here." Here we have the phenomenon of the insta-New Yorker. I see it all the time: A guy arrives on a Tuesday, and by Friday he's bitching about the corn-fed tourists, and about his Aunt Martha from Dayton, who "just doesn't get the prices here."

In Congress, Rep. Ernest Istook, of the very un-New York state of Oklahoma, and chairman of the relevant subcommittee, was raising a fuss about Clinton's prospective suite in the sky. He wanted Clinton to accept, say, the ninth floor, which would cost about two-thirds less. You rubes in Greater America probably wouldn't understand this, but floor—height, altitude—is extremely important in Manhattan. Said "a source close to Clinton" to the *New York Post*, "Istook is just trying to make him take a lower floor to demean him." And the ninth floor, aside from the fact that it was practically at worm-level, was just too close to the Russian Tea Room for comfort—security and all.

It was looking bad for Clinton: his greed, his fanciness. His liberal base had always been lenient—even celebratory—about the sex, but the money angle was more discomfiting. Cattle futures, Oriental cash, spirited-out Executive Mansion luxury goods, funds-for-pardons, the 56th floor—all hard to swallow. Clinton, particularly without his Oval Office-commanded attack and spin machine, was in a pinch.

And then he played it—his card.

Said Clinton—and only he would be brazen enough to pretend this is true—"I asked myself, 'If I could go any place in New York to have an office, where would I go?' Immediately I thought of . . . "—of course, Harlem. *Immediately.* Carnegie Hall Tower? Where's that? The main mover behind the stunt seems to have been Charlie Rangel, Harlem's congressman-for-life. Rangel apparently serves as a kind of Clinton-family counselor: He more or less started the Hillary-for-Senate (from New York) movement, and now he has rescued Bill.

Actually, a move to Harlem is not an original ploy—and Rangel is no stranger to the theater associated with it. In 1960, Fidel Castro famously decamped from a plush Midtown hotel to the Hotel Theresa in Harlem, to show solidarity with the people there. Whenever he returns to New York, for a U.N. gathering, he goes back to Harlem, where he is mobbed by cheering, adulatory throngs—and bear-hugged and escorted by Charlie Rangel. In 1995, at a Baptist church, they all screamed, "Fidel! Fidel! Fidel!" and "Viva Cuba!" Said Castro there, "As a revolutionary, I knew I would be welcome in this neighborhood." He used the occasion to blast Republican affirmative-action policy.

Clinton, too, was mobbed and adulated in Harlem—"treated like a rock star," we all would say. He had been "snubbed" by the elites downtown,

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and now he was "going home," where he "belonged." In one of those amazing flights of autobiography—incredible, but not precisely checkable—Clinton claimed that he used to enjoy walking through Harlem in the 1960s. "People would come up to me and ask me what I was doing here, and I said, 'I don't know, I just like it.' It felt like home." The comment of one in the Harlem throng, to the *Post*, was typical: "He grew up in a single-parent family. He struggled. Why don't he come on home?"

Clinton soaked up the love around 125th Street—sucked it in like a sick man his medicine. He seemed to feel validated by it, redeemed, as he always does. The mindset contains the following: *Black people are the moral arbiters of this country, its very conscience. They like me, and more than like me. Compared with that, every other question is disgustingly small. Sit on it.*

As untiring Clinton apologist—and Clinton likeness—Geraldo Rivera said, "Can those bitter and frustrated political foes lay a glove on the President of 125th Street?" To bask in the love of black people is, in one sense, to be untouchable. During his shining hour in Harlem, Clinton declared, "This is what my presidency was about." Yes, in a way.

Clinton may not move in—there are lease problems with the designated building. And even if he does, he shouldn't be expected to spend much time there—he'll find a way to get back downtown. The comedian and social critic Chris Rock expressed such a fear when he said in an interview, "Bill, you better really be there. Don't have a side office downtown where you do your real business, do your real entertaining" (as Al Sharpton does, incidentally—his downtown domain is in the Empire State Building). Clinton could easily arrange a life of (a) Babbo, (b) golf in Westchester County, (c) travel, and (d) an appearance in the 'hood every now and then, for lunch, autographs, and love/validation.

Our 42nd president is a beaut, all right. And you can count on him. You really can. ♦

Meet the Dozoretzes

Clinton's power couple BY STEPHEN F. HAYES

WHEN GARY HART was exposed as a philanderer, ending his 1988 presidential bid, Ron Dozoretz stood by him and helped arrange a much-needed respite in Ireland. When Michael Kennedy died in a 1997 skiing accident, Beth Dozoretz bought pizzas and opened her Aspen, Colorado, vacation home to the grieving Kennedy clan. And when President Clinton faced the fallout of scandals from White House fund-raising coffees to Monica Lewinsky, the Dozoretzes were there to help bail him out—financially, legally, and emotionally.

This loyalty—along with millions upon millions of dollars in contributions and dozens of fund-raisers at their Washington, D.C., mansion—has made Ron and Beth Dozoretz well-known figures among high-society Beltway Democrats. And though they have been gossip-column regulars for the past eight years, they've managed to glide through with little of the media scrutiny visited on so many other Clinton associates.

But in the waning days of the Clinton nightmare, the Dozoretz name popped up in two embarrassing news stories. The controversies differ in degree, but not in kind. One is minor, almost petty; the other potentially criminal. But taken together, they provide a perfect coda to the Clinton presidency and a telling glimpse of the people who comfort the comfortable.

And just as Clinton will no doubt continue to wield tremendous influence over the direction of the Democratic party, so will Ron and Beth Dozoretz. They have contributed to at least half the Democrats currently serving in the Senate, and countless House members. They held a fund-raiser at their home in honor of the new Democratic National Committee chairman, Terry McAuliffe. And they are close to the still-thriving Kennedy and Cuomo dynasties—the likely source of 2002 gubernatorial candidates in Maryland, New York, and Massachusetts.

"They've given to everyone and his brother," says Larry Sabato, professor of government at the University of Virginia. This generosity has its rewards.

Ten days before the world (and the Justice Department) learned of President Clinton's pardon of Marc Rich, Beth Dozoretz had a pretty good idea that it was coming. Mrs. Dozoretz, a Clinton intimate and former finance chair of the Democratic National Committee, spoke to the president from Aspen. At her side sat Denise Rich, the ex-wife of, and chief lobbyist for, the fugitive financier.

E-mails between Denise Rich's lawyer, former White House counsel Jack Quinn, and others trying to secure the pardon, place Beth Dozoretz at the center of the intrigue. Quinn, in his testimony before the Senate Judiciary Committee, acknowledged Mrs. Dozoretz's key role, as "a close friend of Denise Rich, and . . . a good friend of President Clinton." "I knew that she speaks with the former president with some frequency," Quinn said, "and so I was sure she would know of my efforts and no doubt inquire about the status of our application. That was not unwelcome to me."

Stephen F. Hayes is a writer in Washington, D.C.

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Quinn added that he didn't ask Dozoretz to bring up the pardon "in a fund-raising capacity" with Clinton. According to the e-mails, Clinton told Dozoretz that he "want[ed] to do it" and that he needed only to "turn around" the White House attorneys opposed to the Rich pardon. The same e-mail reported that Denise Rich thought "he sounded very positive" about the prospects of a pardon.

The pardon came, of course, shortly after Mrs. Rich gave a reported $450,000 in support of Clinton's presidential library. And now, House and Senate committees, federal prosecutors in New York, and the FBI all are investigating Clinton's ultimate presidential act.

Less weighty but more curious is the favor Clinton did for Beth's third husband, Ron. In 1996, Clinton named Mr. Dozoretz to a six-year term as a Kennedy Center trustee, a coveted sinecure among D.C. socialites. With only two years left to his term and an incoming President Bush, Dozoretz abruptly resigned his position in mid-January, only to have Clinton reappoint him days later to another six-year term.

The move surprised other Kennedy Center bigwigs. "It's not uncommon to be reappointed" to the board, said one Kennedy Center officer. "Republican presidents reappoint Democrats, and Democrats reappoint Republicans, provided they're active and productive. But this is the first I'm aware of someone going through the process of resigning and being reappointed. It's an unnecessary action."

Dozoretz, who did not respond to calls for this piece, justified the unprecedented move by pointing to a situation of near-crisis proportions at the Kennedy Center. "The truth is I'm very involved working at the Kennedy Center, redoing the restaurants and improving the kitchen and the catering service," Dozoretz told the *Washington Post*. "That will take two or three years more, and I want to finish the job. When we're done, it will enhance the whole image of the Kennedy Center."

Beth Dozoretz

Image-enhancement—though it backfired in the case of Ron's reappointment to the board, which was criticized as a crude display of political patronage—is something of a preoccupation with both Dozoretzes.

Two years ago, after she saw *Necessary Targets*, a play by *Vagina Monologues* author Eve Ensler, performed in Bosnia, Beth offered to help secure a D.C. venue for a reading. The Kennedy Center contributed its Terrace Theater, Glenn Close and Whoopi Goldberg booked their flights, 400 other important people put on their theater-best, and a major event was born. (The evening's honoree: Hillary Rodham Clinton.)

Some associates say a desire for social status is behind Ron Dozoretz's generous political giving. Others note that his giving is bipartisan—he's made scattered contributions to Republicans, mostly from his adopted state of Virginia—and suggest that his real goal is access. Dozoretz, worth an estimated $250 million, owns and operates FHC Health Systems, a network of private health care companies that focus on mental health services and substance abuse. His biography on the company's website claims Dozoretz "has been recruited by health care policy makers in the White House to assist in developing national health care policy." Still others point to his medical degree and offer more cerebral reasons. "You've got to remember, Ron Dozoretz is a psychiatrist," says a longtime associate.

Thomas Fluharty

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"He's just fascinated by the power of these folks."

Dozoretz worked at the highest levels of political aspiration as a top adviser to Gary Hart's 1984 presidential campaign and his short-lived 1988 bid. In the middle of the 1984 campaign, Dozoretz offered the *Washington Post* his professional opinion of the rigors of campaign travel, an analysis that ruled out at least one potential excuse for his candidate four years later: "This is not so stressful that it would cause people to do things that they would not ordinarily do; this merely accentuates their normal behavior," he said. "If they get rowdy or obnoxious or drink too much or womanize, they didn't get that way here. They'll tell you it's the stress of the campaign, but don't believe it."

Curiosity may be what prompted Dozoretz to explore his own run for the U.S. Senate in Virginia in 1988. With his deep pockets, Dozoretz hired three staffers and took several polls to test his viability as a candidate. Some of the polls were favorable, but it soon became clear that voters didn't take to Dozoretz. "He very much wanted it, but he was blindsided and shown the door very quickly," says Sabato.

If Dozoretz couldn't influence American politics by winning votes, he and his wife have surely tried to do so by dispensing their money and cultivating political friends. Beth Dozoretz helped arrange a "Welcome Home" party for Clinton's HUD secretary, Andrew Cuomo, up in New York, just nine days after Clinton left office. Cuomo, who wants to be New York's next governor, faces a tough primary fight against popular state comptroller Carl McCall, the only black elected statewide in New York.

The party was not a fund-raiser, but a get-together of the most influential Cuomo backers, an opportunity to show their early support. At the last minute, the party's hostess backed out, saying that the gathering would have to be held elsewhere.

The hostess? Denise Rich. ♦

It Takes a Library . . .

How many lawyers do you need to build the Clinton Library? BY KANE WEBB

Little Rock, Ark.

TWO HIGH-SCHOOL STUDENTS are asleep in the back row of the Arkansas Supreme Court, and the rest of their classmates, the ones with their eyes open, have that slack-jawed look of the video generation under the anesthetic of a school assignment. Who can blame them? It's not easy to stay awake as Tom Carpenter, attorney for the city of Little Rock, approaches the seven justices to make his case. He aims to convince the court, if not the people of Little Rock, that city financing of the purchase of land for the Clinton Library is legal. Another day, another Clinton controversy, in another court of law.

At times like this, it seems as if Arkansas has spent most of the Clinton era in a courtroom. Waiting. Waiting for the arguments. Waiting for the plausible explanation. Waiting for the verdict. Waiting for the end. But certainly not waiting for Arkansas's most famous and infamous son to save the day. Bill Clinton's only presence in this courtroom is his name. Which is more than enough to keep legal briefs flying and tempers flaring.

If it weren't for the students, there wouldn't be much of a crowd at the state's highest court this cold, gray February morning not a month into Bill Clinton's post-presidential life. Just a few local reporters, Carpenter, a lawyer for the plaintiff, and the plaintiff herself—a blunt, 68-year-old, white-haired pain in City Hall's outstretched neck named Nora Harris.

She's suing the city for the way it's buying the 27.7 acres of land along the Arkansas River that one day—2003? 2004?—will be the site of the William J. Clinton Presidential Center, now bumped up to a $200-million project by the ex-president. Yes, $200 million. It's the kind of development you don't usually find in Arkansas. Even something really important, like renovation of the Razorbacks' football stadium, runs a mere $106 million. But then, only half of the $200 million will be spent on the library. The rest? Well, there's a Camp David-like retreat in Hot Springs to pay for, an endowment to fatten, and a whole post-presidential agenda to fund. The William J. Clinton Foundation, it seems, will pay for everything surrounding the presidential library except what actually surrounds the presidential library: the land. The city of Little Rock is on the hook, with a $16.5 million bond issue.

Kane Webb is assistant editorial page editor of the Arkansas Democrat-Gazette.

The New Criterion

In our March issue . . .

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Meanwhile, on this same morning, Dan Burton's House Government Reform Committee in Washington is finding out some interesting details about the Clinton Library. Namely, that Denise Rich, the ex-wife of America's most famous pardoned fugitive, Marc Rich, has donated "an enormous sum of money" to the library fund. Or so says her attorney, for his client has opted to take the Fifth rather than testify. This prompts a congressional subpoena to make public the names of library donors.

Things aren't quite so dramatic in Arkansas's capital. Just persistent. The Rich money and what it may or may not have bought is hardly the first controversy over the Clinton Library.

The library is just one more instance of the polarizing effect William Jefferson Clinton has had on his home state. A presidential library would seem the kind of project to quicken the pulse of every civic booster. But not here, and not with this president.

Harris's lawsuit against the city has been proceeding for almost three years now. She says the city is playing an illegal shell game by pledging general fund revenue to pay off a general revenue bond that financed the library land. She thinks there should have been a specific bond issue to pay for the land, which the city wanted to avoid for fear of having a Clinton referendum. The city has used general revenue to subsidize the struggling parks department in the past. That's where the shell game comes in. It doesn't use general revenue directly to pay off the bonds for the library land. Harris's argument is that the city is doing this indirectly—general funds to the bonds, but with a detour through the parks.

The city keeps winning, Nora Harris keeps appealing, and plans for the library have been kept waiting. This self-described retired housewife isn't the only resident of Little Rock who has taken the city to court over the library. Eugene Pfeifer III, a prominent real-estate developer and another City Hall gadfly, has sued Little Rock over its attempt to seize his three acres of land on the library site. Pfeifer's suit, which is on appeal, has held up the groundbreaking for months.

Among other things, Pfeifer doesn't like the way Little Rock officials decided to spend more than $12 million to acquire the site by using fees from the city's parks, zoo, and golf courses—a move the city made without voter approval. "The decision was top-down, secretive, non-participatory, and many of the city directors didn't know a thing about it on the night it passed and some still don't have the details," Pfeifer tells me by e-mail. "This decision to provide the land for the presidential library from our Parks and Recreation Department has raped our city zoo, parks and golf courses."

Indeed, Little Rock's zoo has been struggling for years and recently lost its national accreditation. And by pledging their money to the library, the city may be driving the parks into a deficit. This will probably mean a huge increase in fees or taxpayer money that goes into the city's general fund for other basic projects. Either way, it's not what the residents of Little Rock signed on for. The city maintains that it is within its legal rights to use the fees from the parks, golf courses, and zoo to pay for the library's land and replace any shortfall from the general fund just as it has in the past.

At one especially ludicrous point in the Pfeifer case, the city tried to argue that the library wasn't really a library but a park, so it could pay for the land with park revenues. It's all rather . . . Clintonesque.

As Justice Donald Corbin puts it in a question to Harris's lawyer, David Henry: "Aren't we dealing with semantics?"

"Yes," answers Henry, "the city is playing word games. Like putting a sign on a cow that says horse."

One of the students suppresses a laugh. Hey, they are paying attention. So are the justices. To judge by their rough treatment of Carpenter, they seem to understand the Clintonesque game and the Clintonesque question: Is the city's financing illegal or just slick? What it isn't is simple. But nothing is simple when it comes to Bill Clinton and his home state of Arkansas.

A few days later, it's raining cats, dogs, and subpoenas in Little Rock. The Clinton Foundation has been served; Gene Pfeifer checks in to tell me that he doesn't expect his appeal to be heard till summer, and the actual construction of the library seems farther away than ever. The steady rain makes it feel colder than it is, and the drive from downtown to the future site of the Clinton Library takes longer than usual. Almost five minutes.

It's easy to find the 27 acres destined for Clinton enshrinement. You just take a right at the Arkansas River and head east out of downtown until you run into absolutely nothing. That's it. Desolate would be a kind description.

Only a few buildings remain on the land. Then again, only a few buildings were there to begin with. There's a 19th-century train station of rust-red brick that will be preserved and transformed into a public policy center. Next to it, sitting a little too close, is a pea-green, metal building. Windowless, empty, condemned. May Supply Co. It's Gene Pfeifer's building. It's not holding up well, but it's holding up everything.

Jim Dailey must wince when he sees that building. He can barely get the words out when I talk to him later in the day. "We've removed quite a few buildings," he says. "The only piece left is" . . . pause . . . "Gene's." Dailey has been mayor of Little Rock since 1994. He has presided over an unprecedented revitalization of the city's core. Loft apartments, a riverfront district full of yuppie beer halls and coffee houses, the expansion of high-tech businesses into downtown —the whole, gentrified, Jane Jacobs dream. Dailey has all the right connections for a politician looking to get

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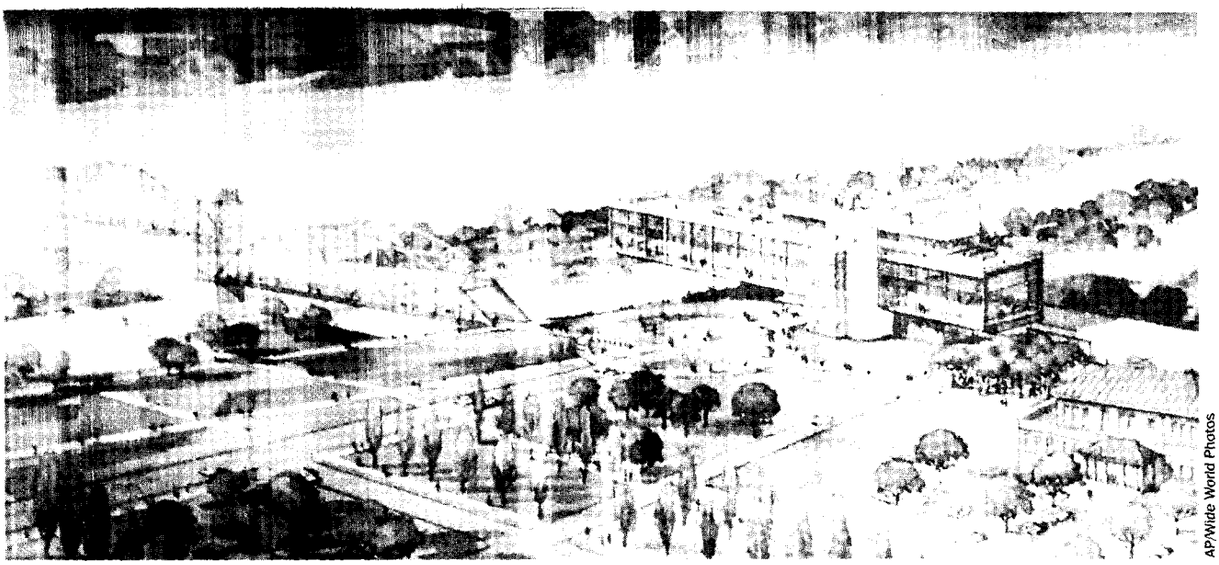

AP/Wide World Photos

Artist's rendering of the future Clinton Library

ahead in Little Rock: He's long been friends with Bill Clinton, he's a lifelong Democrat from a prominent local family, and he gets his political advice from Skip Rutherford, one of Bill Clinton's closest friends and now the subpoenaed president of the Clinton Foundation.

But landing the Clinton Library in his city has been anything but a crowning achievement for Jim Dailey. The way the city acquired the land, the way it leveraged the parks and zoo, the way it caved in to Clinton paranoia and refused to let the people vote on a bond issue to finance the site . . . it's all led inexorably to an erosion of public confidence in city government and, perhaps most predictably, another division along the Great Clinton Fault Line.

At one point, folks got so disgusted that they flooded City Hall with phone calls against renaming a main downtown thoroughfare Clinton Avenue. It was eventually shortened to just a few blocks leading to the library.

"The way we financed the land, I've thought about it a hundred times," says the mayor. "With the available options, knowing we were being pushed to have some commitment . . . I still think having the presidential library here, despite the issue continuing to be part of the Clinton story, will be a wonderful addition to the city. There are a lot of pieces to this story that makes it a tough and agonizing journey. Knowing what I do today . . ."

The mayor trails off. Then, as if remembering his supporting role in this latest Clinton tragicomedy, he defends the decision not to put a vote before the people. "It would have been a mandate for or against Clinton," he says. "The big issue was do we want to turn this into a vote of up or down on President Clinton?"

Little Rock's leaders did not want that. After all, there's no denying the economic benefit of a presidential library. City officials estimate the library will attract about 300,000 visitors and an extra $10.7 million a year. Its location near downtown has already drawn two major business developments, and longtime residents are thrilled to have anything built in this forgotten part of the city, where old water heaters and broken washing machines go to die. But, perhaps inevitably, the financing controversy has led to lawsuits and bad feelings—over a $200-million presidential library that should have been welcomed as the ultimate slab of nonpartisan pork. Bill Clinton hasn't been pleased.

"There have been times . . . he's vented a little bit," says Dailey. "I agonized on my role as mayor in the midst of all [the Clinton scandals]. Bill Clinton is my friend, and I certainly don't wear a halo. I tried to be as supportive of him as Webb Hubbell, another friend, but at the same time, I'm the mayor of the city. . . . It was a difficult time for me."

A difficult time that never quite draws to a close. When Bill Clinton visited Arkansas to address the state legislature during his last week in office, he surprised local officials by declaring the library a $200 million project—more than twice the original, $85 million estimate. Two days after his visit, the president cut the deal to have his Arkansas disbarment proceedings dropped. But the Pfeifer and Harris lawsuits drag on, and now the fund-raising prowess of a nonprofit, tax-deductible foundation that may have to publish every donor's name will be put to the test.

In a state like Arkansas and a city like Little Rock, where everybody knew everybody even before we all met in court, Skip Rutherford is the kind of local personality who is well-known for his well-knownness. Like a TV weatherman. He's regularly described as a Good Guy, which is the highest of southern compliments, and even his ideological opposites usually have a good word for the Skipper.

He may be the aboriginal Friend of Bill, and he's one of the few FOBs not to be tainted by scandal. Which is why it's something of a shock to see his name on a congressional subpoena. "To Skip Rutherford, President, William J. Clinton Presidential Foundation. You are hereby commanded to produce . . ." Will Little Rock never see the end of this?

In his capacities as a Clinton defender, both officially and un-, Rutherford has earned a reputation for always returning phone calls and never dodging questions. But on sub-

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poena day, he uncharacteristically doesn't get back to a reporter. Instead, his assistant, Jordan Johnson, calls back with the Clinton Foundation's latest line: "I can neither confirm nor deny that Denise Rich contributed. We have got a subpoena. I can't comment. We haven't done anything differently. We've been using the two-term model set by Reagan."

About the only thing Johnson can say is that the Clinton Foundation may still pay part of the rent for the ex-president's offices in Manhattan, even if he moves to cheaper digs in Harlem. How will this new role for the foundation sit with donors? Johnson says he hasn't received any complaints so far. Rutherford said he hadn't, either.

But this arrangement surely came as a surprise to library contributors, especially those in Arkansas, who must have thought they were giving money for bricks and mortar in Little Rock. Joe Ford, a conservative businessman and CEO of Arkansas-based Alltel, a telecommunications company, pledged $1 million in 1999, specifically citing the project's impact on downtown. When a reporter for the *Arkansas Democrat-Gazette* asked how he felt about helping Clinton pay his rent in New York, Ford said simply, "We gave money to the Clinton library. We didn't give to anything else."

On the other hand, one prominent local Republican and non-donor to the library says that's what post-presidential foundations are for—picking up the tabs and saving the taxpayers some bucks. "That doesn't trouble me," he says. "As a taxpayer, I'm delighted."

But the Harlem office is the least of Rutherford's worries. As another FOB facing a subpoena, he's got a bigger controversy on his hands. The day after the foundation gets its full-disclosure demand from Congress, Skip Rutherford is traveling from Little Rock to Fayetteville, where he teaches a journalism class once a week at the University of Arkansas. His subject: crisis communications. He shouldn't have any trouble finding material. ♦

The End of the Honeymoon

With Bush's budget, politics gets real.

BY FRED BARNES

THE WHITE HOUSE doesn't quite know what to call President Bush's speech to Congress on February 27. It's not a State of the Union address. Some Bush aides refer to it as "the budget priority speech," since the president will present highlights of his first federal budget. And the next day, he'll dispatch the 2002 budget in all its mind-numbing detail to Capitol Hill. A more popular title around the White House, given that the Senate and House will convene together to hear Bush, is "the joint session speech." At least that's the working title used by the Bush speechwriting staff. A more accurate name, however, might be "the end of the honeymoon speech."

In his first month as president, Bush fared extraordinarily well in Washington, wooing if not wowing nearly everyone and defying expectations that his honeymoon would be shorter than Darva Conger's. Yes, he took some potshots from congressional Democrats over his $1.6 trillion tax cut. And two Senate Republicans expressed qualms about the Bush tax plan. But the president was able to lay the political and economic groundwork for the plan's passage, aided by Federal Reserve boss Alan Greenspan and surging surplus numbers.

Now comes the hard part, the 2002 budget, which Bush hasn't even begun to sell. He will propose a 4 percent (or less) hike in spending, which may sound like a lot outside the Beltway, but in Washington it's bound to be viewed as Draconian. And the 4 percent increase will seem especially small compared with the 2001 budget, which grew 12 percent. There's another problem: reprogramming. This is the shifting of money from one agency to another, allowing some like the Education Department to get more funds while others, such as the Labor Department, face cuts in their projected growth. House Republicans, in a series of private "listening sessions," accepted all this calmly. But going along with reprogramming in theory is one thing, notes representative Roy Blunt, the deputy GOP whip. Swallowing actual cuts is another.

Republicans, though, are not Bush's problem. Democrats and the media are. Democratic attacks are utterly predictable. Agencies whose budgets don't rise faster than the rate of inflation will be characterized as victims of Bush's tax cut. Democrats will say Bush had to trim critically needed spending to accommodate a tax cut that's too large and favors the rich. Also, Bush's claim to be a compassionate conservative will be sneered at. Would a compassionate leader really chop programs during an economic downturn marked by large layoffs? For Democrats, that's a rhetorical question. And of course all the spending constituencies who benefit from budget growth will weigh in.

The press poses every bit as serious a threat. Reporters have been remarkably kind to Bush in his first weeks as president. For this, they've been harshly criticized in both media and left-wing political circles. Chances are, they're ready to change

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their tune, and the budget will give them an opportunity. They will have actual budget numbers for specific programs to deal with, making it easier to point out the victims of Bush's budget.

Anyone who remembers the shock and horror with which the media treated President Reagan's modest spending cuts in 1981 knows well how reporters can project an image of presidential coldheartedness.

Yet the White House seems oblivious to the possibility of an abrupt end to the honeymoon. Neither Bush nor his aides have flinched on the budget. This stems, I suspect, from a combination of steadfastness and innocence. Mitch Daniels, the budget director, has gone about his work of holding down spending without interference. He sent some spending proposals back to agencies because they didn't follow his instructions to justify any new expenditures (even ones based on inflation) beyond last year's budget. Daniels says the budget will be "realistic but restrained." Among other things, Daniels told the Associated Press he wants to kill "a healthy fraction" of the 6,118 "earmarks" for local projects that members of Congress stuck in the 2001 budget at a cost of $15 billion.

Mary Matalin, the refugee from *Crossfire* who is now Vice President Cheney's political adviser, says she doesn't know anyone at the White House who frets about the end of the honeymoon. "It's not a topic of conversation," she adds. Nor should it be, says Karl Rove, Bush's chief political strategist. "We know they'll be coming [at Bush]," he says. But the budget had to take a backseat to two higher priorities: education and the tax cut. "There's a time for [promoting the budget]," according to Rove. "You don't want to open that prematurely." So Bush won't begin selling his budget until his address to Congress next week, followed by a couple of days of events outside Washington. Not a moment too soon. ♦

Marriage Penalties

What's good and what's bad in Bush's tax plan.

BY ALLAN CARLSON AND DAVID BLANKENHORN

WHEN MARRIAGE BUFFS (like us) consider President Bush's proposed tax cuts, we don't obsess over whether they will be good for the economy, or for certain government programs, or for the Republican party. We lose sleep over whether they will be good for the institutions of marriage and the family. And for those who share our little fixation, here's the skinny: President Bush's tax plan contains one very good idea and one very bad one.

The good idea is doubling the child tax credit, from $500 to $1,000. This increase would reflect the principle that raising children is not only a private lifestyle choice, like raising geraniums, but also a socially necessary vocation that deserves and requires support from society.

Unlike reducing marginal rates, which disproportionately benefits the affluent, the child tax credit is nonregressive; the poorest taxpaying family benefits from it just as much as (and proportionately more than) the richest. Moreover, unlike the notoriously unfair dependent care tax credit, which provides tax relief to parents using commercial child care, the child tax credit helps *all* taxpaying families with children. (Indeed, as part of this year's tax package, we hope that the president and Congress will finally correct the inequity at the heart of the dependent care tax credit, either by replacing it with an even larger child tax credit—say, $1,500 per child—or by making it available on a non-discriminatory basis to all families with young children.)

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At the same time, while the child tax credit helps many married parents, its connection to marriage itself is indirect. Because the credit is marriage-neutral, it fails to reflect any societal or policy understanding of what marriage is. To get at this deeper issue—the one that truly sets the heart of the marriage buff aflutter—we must look at what is surely the most misbegotten tax issue of the past two decades: the so-called marriage penalty. And here is where the Bush tax plan takes a wrong turn. Indeed, the president's proposal to reduce the marriage penalty would *weaken* marriage, not strengthen it.

To get this issue straight, we need to rewind the tape a bit. For marriage buffs, the tax question on which all else rides is whether we tax married persons as individuals, essentially as if they were single, or treat the married-couple household as a single unit of taxation. Because marriage buffs want public policy to recognize that marriage exists, we cling to the latter formula. Conversely, those who dislike marriage, as well as those who haven't thought it through, or who simply have other tax-policy fish to fry, almost always favor the tax-them-as-individuals approach.

Criticism of something called the "marriage penalty"—defined as a married couple's paying more in taxes filing jointly than they would if they had remained single and filed separately—first emerged in the United States in the 1970s. The proposed solution sprang from the ideological Left, and entered the U.S. debate in part by way of Swedish social radicalism: Ignore marriage altogether. Tax everyone individually. Such a shift in public policy would eliminate the marriage penalty, but it would also sharply scale back recognition of marriage in public policy

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and, in the process, create substantial economic disincentives for all forms of marital interdependence, including the decision of mothers to be at home with children. For the Left as a whole, this posed no problem. And for the anti-marriage Left, what a sweet irony. They could advance their agenda under the rhetorical guise of *helping* some married couples!

In the early 1980s, the story got even stranger, as eliminating the Left-defined "marriage penalty" suddenly became a pet cause of supply-side economists in the Reagan administration. Supply-siders' mission is to cut marginal tax rates to induce more and more Americans to get jobs and work longer hours, thus boosting the gross national product. In important respects, however, they are soul mates of the anti-marriage Left. Both groups see the world primarily in terms of autonomous individuals, not family units or people who depend on others. Both strongly favor the market economy over the household economy, and paid work over unpaid work. In particular, both groups look at able-bodied mothers at home with children and see a social problem.

So here is the conservative economist Alan Reynolds of the Hudson Institute in 1999, writing in *National Review*, worrying that the U.S. economy is "running short of willing and able workers." Why are we running short? Primarily because high marginal tax rates are "driving skilled married women out of the labor force." This is very bad. Such women become economic non-contributors. They raise children and run communities as *volunteers*, indifferent to the fact that The Economy needs them! And here is the Social Democratic finance minister of Sweden, Bosse Ringholm, explaining in February 2000 that he opposes the extension of certain tax benefits to at-home parents because "society gets nothing back from a parent who is at home. Those who are at home contribute nothing to the state." Milton Friedman strategically cuddling up with Gloria Steinem. Who could have imagined it? Yet this odd intellectual scaffolding has defined the "marriage penalty" debate in the United States for more than two decades.

In 1981, purportedly to reduce the marriage penalty, the Reagan administration sought and achieved a change in the tax code that was an important step in the direction of individual taxation. Under this law, couples in which both spouses work were allowed to deduct 10 percent of up to $30,000 of the income of the lower-earning spouse. It was a classic supply-side measure—essentially a $600 per year incentive for the second spouse to enter the paid labor force. This provision was eliminated in the tax changes of 1986.

The supply-siders and the anti-marriage Left are soul mates. Both see the world primarily in terms of autonomous individuals.

In the early 1990s, Newt Gingrich loudly revived the notion of ending the marriage penalty, including the promise in the Republicans' 1994 Contract With America. In 1997, the Congressional Budget Office weighed in, releasing a study not only quantifying the marriage penalty, but also showing that many (primarily one-earner) couples enjoy what the CBO called a marriage "bonus"—that is, they pay *less* as a married couple than they would have paid as single individuals. Largely on the basis of this CBO report, virtually everyone in the public debate—except a few eccentric marriage buffs—came firmly to believe that individual filing represents the basic standard of tax fairness.

This was a huge idea, and it had consequences. In 1997, and again in 1999, congressional Republicans seriously entertained, and in fact came close to passing, legislation permitting married couples to file their returns singly, as if they were unrelated individuals, or jointly—whichever would result in the lower tax burden. Only last-minute lobbying by the Family Research Council and a few individuals, including several marriage buffs on key congressional staffs, prevented this idea from becoming law.

Which brings us finally to President Bush. His proposal for reducing the marriage penalty in 2001 is to go back to 1981 and permit the second earner in two-earner couples to deduct 10 percent of income, up to $30,000. In purely economic terms, this is a fairly small move. But it is rooted in the same bad thinking that has haunted this issue for decades. Such a shift in the tax code would be economically regressive, primarily benefiting comparatively affluent, two-earner couples. By encouraging spouses to join the paid labor force, and by shifting a greater share of the total tax burden onto one-earner couples, such a law would create greater disincentives for at-home motherhood and for all other forms of unpaid work in families and communities. More broadly, by moving us closer to an individual, as opposed to family, basis for taxation, such a policy would discourage the economic and personal interdependence that is at the heart of marriage.

There are several ways to eliminate the marriage penalty properly, without undermining marriage as an institution. The details vary, but the essential idea is to treat married couples as joint economic partnerships, just like other legally recognized economic partnerships, permitting them fully to share their income for purposes of taxation. Congress actually adopted something very close to this in 2000, only to have the legislation vetoed (mostly for extraneous reasons) by President Clinton. So a genuinely pro-marriage solution is readily available for anyone who wants it. But it would be better to do nothing about this problem than to do what President Bush is now proposing. ♦

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The Brief on Busing

Ashcroft's first test. BY EDWARD BLUM

IN A TWIST OF FATE and legal protocol, the arguments made in an amicus brief in defense of school busing and racial quotas by Clinton-era civil rights enforcer Bill Lan Lee will soon go before the Fourth Circuit as the position of the Bush Justice Department. The case is *Swann v. Charlotte-Mecklenburg Board of Education,* and if Lee's brief is not withdrawn, President Bush will have failed his first test in civil rights.

The legal brief defends Charlotte, North Carolina's 30-year school-busing regime from a 1997 lawsuit brought by the parents of then 6-year-old Cristina Capacchione. The Charlotte-Mecklenburg school district refused Cristina's admission to a gifted program because all of the slots reserved for "non-black" children had been filled. They were under a 30-year-old court order, the school district argued, to implement just these types of quotas. Additional parents joined the lawsuit because of their dissatisfaction with having to bus their children to schools half an hour or more outside of their neighborhoods.

After an eight-week trial, district judge Robert Potter ruled in favor of the children and declared the school district "unitary"—this is, free from any remaining effects of prior racial discrimination. Potter's ruling to end court supervision and busing in the district was especially noteworthy because it was in Charlotte in 1969 that court-ordered busing came to life. Within a few years, federal judges across the country imposed similar desegregation orders on scores of cities.

The school district had argued that it couldn't avoid practicing racial discrimination against black children, even though the school board is split nearly evenly between blacks and whites, and blacks hold many important administrative positions. This self-incriminating argument, nicknamed the "Doofus Defense," is perhaps the best illustration of the school system's deep desire to retain quotas.

Nevertheless, Judge Potter found that the school system had complied in good faith with the earlier desegregation orders. He further stated that there was no indication that Charlotte schools "will return to a *de jure* segregated system in the future" and that any lingering imbalance in the racial makeup of schools was due to "demography and geography," not discrimination.

A little over a year later, a three-judge panel reversed Potter's ruling. In a split decision, it ruled that Charlotte-Mecklenburg hadn't fulfilled its desegregation mandate. The majority on the appeals panel was persuaded by the Clinton Justice Department's brief, authored by former acting assistant attorney general Bill Lan Lee. They found especially compelling Lee's argument that even a unitary, i.e. unracist, school district has a compelling interest in racially integrating schools by the use of quotas and forced busing.

Does this sound familiar? It should. In a handful of university admissions cases from Michigan to Texas, Clinton Justice officials argued basically the same thing. In these cases, they claimed that diversity itself was the "compelling interest" that obliged schools to maintain racial preferences in selecting students. In the Charlotte case, the Justice Department argued and the appeals court agreed that the possibility that the school system's "diversity" would otherwise decline was reason to continue busing and admissions quotas.

Last month, the U.S. Court of Appeals for the Fourth Circuit granted the parents a full panel review of the case, portending to many observers the reinstatement of Potter's ruling. Oral arguments will be made in Richmond on February 27.

Generations after intentional discrimination and segregation have ended, busing continues for the sake of diversity. This is a terrible moral and legal mistake. Supreme Court Justice Clarence Thomas has written that the Constitution does not give courts and school systems the right to mandate and enforce integration for integration's sake. "This misconception has drawn the courts away from the important goal in desegregation," he wrote. "The point of the Equal Protection Clause is not to enforce strict-mixing, but to ensure that blacks and whites are treated equally by the state without regard to their skin color."

But the argument for ending busing was probably best summed up by a Charlotte NAACP board member and business executive, who stated, "My daughter does not need to sit beside a white person to learn."

The stakes in the Charlotte-Mecklenburg case are huge. Today, nearly 400 school districts are operating under federal court decrees that mandate race-conscious policies such as busing, bizarre school attendance zones, racial caps on magnet schools, and the like. A reversal of the three-judge panel's ruling would return control of the school system to the local school board and perhaps hasten the day when racial preferences and classifications like these come to an end.

Attorney General Ashcroft can put Bush's "compassionate conservatism" into action by withdrawing the Justice Department brief. There is no reason to force another generation of children to drive past neighborhood schools in the name of a failed social policy and legal theory. ♦

Edward Blum is director of legal affairs at the American Civil Rights Institute.

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Uncivil Commission

In Florida, the Civil Rights Commission achieves a new low.

By Jennifer C. Braceras

A deliciously unexpected byproduct of the November presidential election has been the unmasking of the hypocrisy and political bias of a once respected federal agency, the United States Commission on Civil Rights. In the last three years, the commission has launched partisan attacks on New York's Republican mayor and Florida's Republican governor. But never have the political motives of its members been more obvious than in the commission's hearings on "voting irregularities" during the presidential election in Florida.

It has become an article of faith in liberal circles that the election of George W. Bush to the presidency is attributable, in some ill-defined measure, to the systematic "disenfranchisement" of minority voters in Florida. In January, the Civil Rights Commission opened its hearings on the issue. The hearings have thus far failed to unearth even a scintilla of credible evidence of minority "disenfranchisement" (ordinarily defined as the intentional denial of the right to vote). But that hasn't stopped commissioners from taking cheap shots at Florida election officials and concluding—before any report has been prepared—that the right to vote was "interfered with."

Most Americans probably have never heard of the Civil Rights Commission. Established by Congress in 1957 as an independent fact-finding agency, the commission was charged with collecting and analyzing data regarding civil rights. In the late 1950s and early 1960s, its scholarship helped lay the groundwork for the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

But having succeeded in convincing Congress to outlaw racial discrimination and strengthen protections for the right to vote, the commission began to recede into the background. It has no enforcement power and has long since been overshadowed by agencies that do: the Equal Employment Opportunity Commission (which enforces workplace civil rights laws), the Office of Civil Rights at the Department of Education (which enforces the civil rights laws that govern our schools), and the civil rights division of the Department of Justice (which prosecutes voting rights and other civil rights violations). With no significant governmental function, the commission continues to exist largely because of inertia—and what politician is brave enough to have his name associated with the headline "Feds Kill Civil Rights Agency"? Despite its lack of obvious purpose, the commission retains the ability to subpoena documents and compel public testimony. The activists who today dominate the commission use this subpoena power as an instrument of agitation, to embarrass those who refuse to follow the politically correct line on racial issues.

Although bipartisan by law, the commission displays a decided leftward tilt. Its eight members include four Democrats, one Republican, and three "independents"—two of them appointed by Democrats, one by Republicans. In all, six of the eight were appointed by Democratic presidents or Democratic congressional leaders.

Perhaps the commission's most leftward member is its chairman, Mary Frances Berry, a professor at the University of Pennsylvania and a well-known practitioner of racial politics. Berry is a former Democrat who conveniently became an independent after she was named to the commission in 1980 by President Carter. When President Reagan tried to replace her in 1983, Berry sued and won a preliminary injunction barring her removal from office. Shortly thereafter, Democrats in Congress reappointed Berry to the commission, and in 1993 President Clinton elevated her to the chairmanship.

Chairman Berry wears her status as a registered independent as a badge of honor, often pointing to it as evidence of her objectivity. But neutral Berry is not. According to Federal Election Commission records, she is a regular contributor to Democratic and left-wing causes, including Keep Hope Alive (Jesse Jackson's political action committee), Ralph Neas, and the campaigns of Carol Moseley-Braun, Hillary Rodham Clinton, and Al Gore.

Another Democratic appointee, Harvard law professor Christopher Edley, is a former Clinton administration official who advised the Gore campaign. In an article published in the October 9, 2000, issue of the *Nation*, Edley argued that racial progress in America was "contingent" on Al Gore's defeating George W. Bush, and he painted an alarmist picture of a Supreme Court with Bush appointees turning back the clock on civil rights.

Jennifer C. Braceras is an attorney and research fellow at Harvard Law School.

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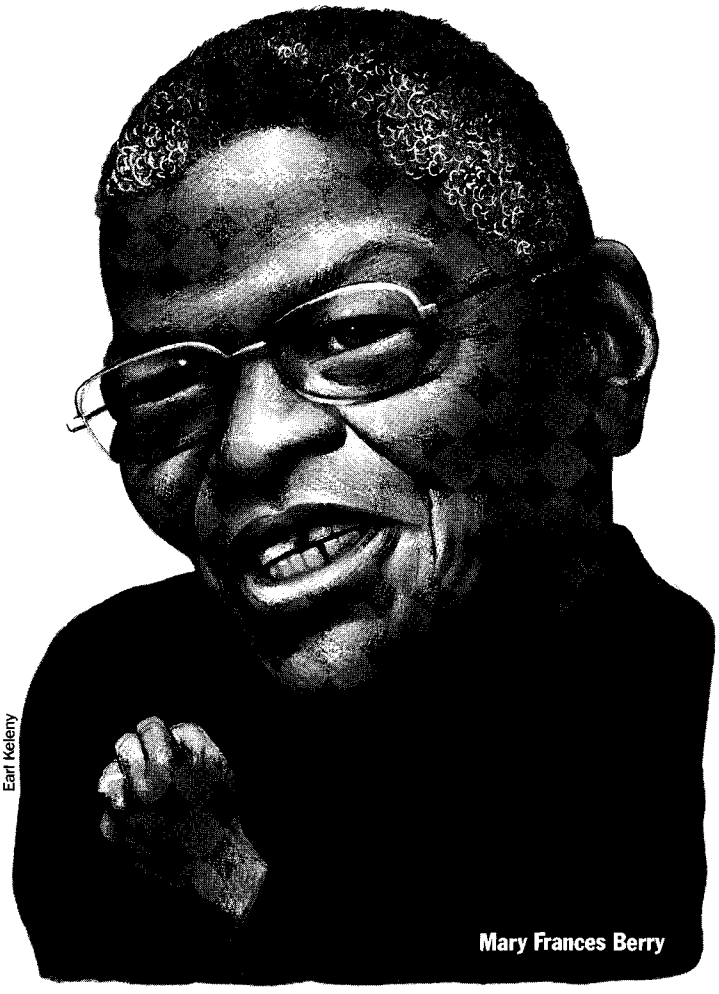

Earl Keleny

Mary Frances Berry

Commission vice chairman Cruz Reynoso is a former justice of the California Supreme Court, where he was famously removed from office by the state's electorate along with then-chief justice Rose Bird. The commission's other Democratic appointees include Elsie Meeks, a Native American activist from South Dakota; Yvonne Lee, a San Francisco consultant; and Victoria Wilson, a registered independent and an editor at Alfred A. Knopf.

To be sure, the commission is not entirely without alternative viewpoints. The lone Republican, Abigail Thernstrom, a senior fellow at the Manhattan Institute and the author of several books on race relations, was a contributor to George W. Bush's presidential campaign. And commissioner Russell G. Redenbaugh, a financial consultant and a registered independent appointed by Republicans, is said to have contributed to Republican candidates. But Thernstrom was appointed only last month. She and Redenbaugh are clearly outnumbered.

Equally significant is the make-up of the commission's staff. Despite the change in administrations, four Clinton holdovers occupy important political appointments, including staff director and general counsel. Kimberly Alton, a special assistant to the staff director, took a leave of absence from the commission to work on the Gore campaign, then returned to take charge of the Florida project soon after November 7. Shortly before the change of administrations, the commission also hired Joshua Gottheimer, a Clinton White House staffer, to work on the Florida matter.

How the Civil Rights Commission came to investigate allegations of disenfranchisement in Florida remains something of a mystery. Sources close to the commission report that in the days following the election, Jesse Jackson telephoned his friend Mary Frances Berry to ask for the commission's help. Berry responded by sending three staff attorneys to Florida. This taxpayer-funded trip was ostensibly necessary so that the commission could "monitor developments" to see if an investigation was warranted. But the sources believe that the attorneys were, in fact, helping Jackson and his staff drum up allegations of discrimination to help Al Gore.

By December, all hell had broken loose in Florida. Initial complaints that a butterfly ballot in Palm Beach County had confused elderly voters had long since morphed into allegations of more widespread "minority disenfranchisement." Jesse Jackson took to the airwaves accusing election officials of joining in "a systematic plan to disenfranchise black voters." In December, the commission voted to open a full-scale inquiry.

The first set of hearings, held on January 11 and 12 in Tallahassee, focused largely on three areas: problems with Florida's voting apparatus, efforts by the state to purge convicted felons from the rolls, and allegations of voter intimidation. Using its subpoena power, the commission summoned Florida governor Jeb Bush and secretary of state Katherine Harris and demanded an explanation for the problems with Florida's voting process. No sooner did the governor take his seat than it became clear the commission was more interested in using him as a political punching bag than in hearing what he had to say. Unlike all the other witnesses who testified before the commission in Tallahassee, Bush was not permitted to make an opening statement. Chairman Berry explained, "We don't have time."

In response to questioning, Governor Bush described a bipartisan task force he has appointed to identify deficiencies in Florida's voting process and recommend reform. He also expressed concern about allegations that convicted felons had been allowed to vote in violation of Florida law, and that, conversely, some voters had been mistakenly identified as felons and purged from the rolls. This prompted Berry to ask sarcastically if Bush had mentioned the felon issue because he considered "the other allegations so insubstantial that they do not merit the same kind of attention."

If the commissioners were disrespectful of the governor, they were positively rude to Harris. Berry berated Harris for what she deemed Harris's failure to educate first-time voters on voting procedures and later mocked Harris's testimony as "laughable." Vice chairman Cruz Reynoso yelled

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at Harris for refusing to extend the deadline for counties to submit the results of their recounts beyond 5:00 P.M. on the date set by the Florida Supreme Court. And commissioner Victoria Wilson accused Harris of riding on "a merry-go-round of denial." In addition to state officials, the commission heard from local election supervisors about mechanical problems in their counties. At one point, Berry pointedly asked whether such problems had affected African-American voters disproportionately. When one election supervisor responded that the predominantly black precincts in her county had been no more likely to experience problems than predominantly white precincts, an agitated Berry cut off the witness and launched into a tirade about the importance of testifying truthfully under oath.

Berry, however, believes not only that minority voters disproportionately voted in areas with faulty voting machines, but that they were the victims of a deliberate plot to keep them from the polls. On January 13, Berry told CNN's Brian Nelson that "most of what happened [in Florida] was on the front end. Most of what happened to people was not even being able to get to the polls or being able to vote." In other words, Berry believes that somebody prevented minorities from voting in the first instance—never mind that black voter participation in Florida rose 65 percent in this election and that blacks, who make up approximately 13 percent of Florida's electorate, were 16 percent of the state's voters on November 7. Unfortunately for Berry, the evidence thus far not only fails to prove her theory, it suggests the reverse—that there was no intentional disenfranchisement in Florida.

Take, for example, the three ordinary voters who testified at the Tallahassee hearings about their personal experiences on Election Day. The first, John Nelson, testified that he became "suspicious" when he saw an unmanned police cruiser parked outside two separate polling places in neighborhoods with large black populations. (At least one of the police cars, it turns out, was parked while its driver was inside voting.) Incredibly, this was Nelson's only complaint.

Another witness, Roberta Tucker, testified that she felt intimidated when police stopped her—along with numerous other motorists—at a roadblock on her way to the polls in Leon County. Tucker, who is black, stated that the officer who stopped her asked to see her driver's license and then sent her on her way. Tucker testified that she then proceeded to the polling place and voted.

The undisputed evidence is that the roadblock, which lasted 90 minutes, was a routine vehicle checkpoint located *more than two miles* away from any polling place. The officers manning the checkpoint issued 18 citations, 12 of them to white motorists—hardly persuasive evidence of a scheme to intimidate non-whites. Moreover, Florida's Democratic attorney general, Bob Butterworth, who also testified at the Tallahassee hearing, has found no evidence that the checkpoint was established for the purpose of denying anyone's civil rights.

In Tallahassee, the commission also heard from an African-American minister known as Apostle Willie D. Whiting. Whiting testified that he felt "slingshotted back to slavery" when he learned that he had been removed from the voter rolls. As it turns out, Apostle Whiting had been mistaken for Willie J. Whiting, a convicted felon born in the same month and year as he. Ultimately, Apostle Whiting convinced poll workers that there had been a clerical error, and he testified that he was allowed to vote.

Berry was undeterred. "Well," she said, leading the witness, "do you think an appropriate reaction to all this that happened to you was for some people—if it happened to other people—to decide that they just simply won't try to vote again?" Berry continued, "I mean, if it's that much of a hassle and if people are going to say you're a felon when you're not and you're going to be embarrassed at the polls or asked for two IDs when you don't need them and you don't have them and nobody else is, maybe you should just stay home and not vote." Chairman Berry apparently sees no distinction between mere inconvenience and "disenfranchisement."

Berry is right, however, about one thing. Some Floridians *were* turned away from the polls. And for good reason: to prevent voter fraud. Florida's constitution prohibits convicted felons from voting in the state, and a Florida statute *requires* each county to purge its voter lists of duplicate names, deceased voters, voters who have moved, and felons. This anti-fraud law was passed in the wake of Miami's 1997 mayoral election, in which ballots were cast on behalf of dead people. Even with the new precautions, the *Miami Herald* reports that at least 2,000 illegal ballots were cast in Florida on November 7 by ineligible felons, unregistered voters, dead people, and people who had already voted. Most of these errors occurred because poll workers failed to check voter identification properly. Yet Berry believes that a mere request for proper identification constitutes an attempt to disenfranchise minority voters.

To be sure, those responsible for updating voter lists made some mistakes. And Governor Bush is right to ask his task force to recommend reforms in this area. But there is simply no evidence that any eligible voter was purged from the voting lists deliberately or that Florida's voter purge law was purposely employed to disenfranchise eligible voters.

Lack of evidence, however, doesn't stop Mary Frances Berry. After several state officials testified that their offices had received no complaints of discrimination, Chairman Berry announced that she viewed such testimony as proof positive that Florida officials had conspired to prevent vic-

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tims of discrimination from coming forward. She explained, "Whenever an agency . . . receives no complaints when there's a bunch of stuff happening out there and it's all reported in the media, that means the people who are complaining either don't know you're somebody to complain to or they don't believe you'll do anything about it. And so from our standpoint, that's not a good thing, that's a bad thing."

As if the Tallahassee hearings weren't bad enough, on February 16, the commission returned to Florida to continue fishing for proof of a conspiracy to deprive voters of their civil rights. Convening in Miami for one day of testimony, the commission heard from additional voters who said they had encountered problems at the polls. Some of the witnesses complained about unusually long lines at their polling places. Others testified that their names had not been on the voter lists and that jammed telephone lines had prevented poll workers from confirming their identities.

In sum, the witnesses who testified at the Miami hearing fleshed out a picture of chaotic polling places, desperately understaffed and lacking in resources. But while the testimony provided clear evidence of governmental inefficiency, it provided no credible evidence of intentional discrimination. True to form, Chairman Berry expressed concern that voters had been "disenfranchised" by the failure of election officials to anticipate patterns of voter turnout and provide appropriate resources. Speaking with reporters during a lunch break on Friday, Berry stated her view that any minority who sought to vote and was unable to do so was a victim of discrimination, irrespective of the circumstances. Intent, Berry said, is not her touchstone, impact is.

Despite her claim that the commissioners will withhold judgment until they have examined all of the evidence, Chairman Berry already knows, as she recently told CNN, that "something very bad, awful happened during the election. . . . [The] right to vote was somehow interfered with." Commissioner Edley, too, seems to have preconceived notions of what happened in Florida. Indeed, like the Queen of Hearts calling for "sentence first, verdict afterwards," Edley at the January 12 hearing sought a "confession" and an apology from Florida officials for disenfranchising minorities. So obvious was the commission's bias that even the *Washington Post* noted it. "Berry's pointed remarks," wrote reporter Sue Anne Pressley, "—and those

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from some of her colleagues—injected a tone of partisan rancor into the hearing's fact finding mission." What Pressley did not mention is that indulgence of partisan rancor has become the commission's modus operandi.

Less than a year ago, the commission came under fire for playing politics with its investigation of alleged discrimination by the New York City Police Department—an investigation launched just as mayor Rudy Giuliani was exploring a run for the U.S. Senate against Hillary Rodham Clinton. During public hearings on the NYPD in May 1999, Berry repeatedly interrupted the mayor's testimony and failed to silence hecklers. As Heather Mac Donald reported in the summer 1999 issue of *City Journal*, Berry refused to reprimand audience members who attempted to shout down witnesses with catcalls such as "P.U. I smell Blue." And when Giuliani attempted to present data showing the NYPD's low use of force in comparison to police in other major cities, Berry interrupted, demanding to know whether the NYPD "fairly represents the population of New York City." In contrast to her treatment of the mayor, Berry showed great deference to New York's leading racebaiter, the Reverend Al Sharpton, whose "work" on the issue of police brutality she praised.

To add insult to injury, Berry—who in September 1999 made the first of several financial contributions to Mrs. Clinton's campaign—threatened to release the commission's report early, without allowing the city an opportunity to comment privately on the draft, as required by law. Only after the mayor complained that the timing of the report's release smacked of politics did the commission agree to give the city a chance to comment. Yet less than a week later, a copy of the report was leaked to the *New York Times*.

The final report, released in June 2000, was a partisan document filled with inaccuracies and distortions. For example, it lambasted the NYPD for "racial profiling" on the basis of raw comparisons of the percentage of minorities in the population with the percentage of minorities among people stopped. And it virtually ignored the dramatic drop in the use of deadly force by New York cops since Giuliani became mayor (down 73 percent between 1990 and 1999).

In a statement dissenting from the NYPD report, two members of the commission reprimanded the majority for "manipulating the data" and politicizing their investigation. The final report, they said, was "a one-sided portrayal of the NYPD . . . based not on evidence, but on conjecture, opinion, and 'perception as reality.'" Amazingly, Berry's allies at the commission had refused to provide the dissenting commissioners with a copy of the hearing transcript, forcing them to file a Freedom of Information Act request in order to obtain copies.

Then, as now, Berry and her collaborators were interested not in uncovering the truth but in eliciting selective testimony to support their preconceived thesis: that Mayor Giuliani presides over a virtual army of racist oppression.

The commission had similar political motives for investigating the use of "percentage plans" in higher education in Florida, Texas, and California. All three states have attempted to eliminate racial quotas while increasing diversity through the use of plans guaranteeing that the top graduates of all state high schools are admitted to the public university system.

The commission rejected Jeb Bush's invitation to meet with members of his administration to discuss his "One Florida" plan. Nevertheless, when the commission issued its report last April, Chairman Berry personally attacked Governor Bush, referring to him as "Scrooge." The report disparaged the Florida plan as a "stealth acknowledgment" of "existing segregation," and warned that the reform would cause minority college enrollment to fall dramatically in Florida. (In fact, there are now more minority students in Florida's state university system than ever before.) The commission also took a swipe at Texas governor George W. Bush, already a candidate for president, referring to the "devastating impact" of the Texas percentage plan on black and Hispanic enrollment in graduate programs.

The percentage plan report was pushed through the commission on a rarely used "poll vote" without the standard time for deliberation and discussion by the commissioners. This tactic sparked a letter of protest from representative Charles Canady (now Jeb Bush's legal counsel), who accused the commission of "launching a partisan attack" against the Bushes during the 2000 presidential campaign. And it prompted criticism from the conservative Center for New Black Leadership, which called the commission "neither Civil nor Right."

The Civil Rights Commission's percentage plan report, its report on the NYPD, and its investigation of the voting in Florida reveal a pattern and practice of hatchet jobs against Republicans. Fortunately, the Department of Justice and the Florida attorney general's office are also investigating claims of minority "disenfranchisement" in the 2000 presidential election in Florida, and a bipartisan state commission is exploring ways to improve voting procedures.

With those more credible efforts under way, it is difficult to see the Civil Rights Commission's inquiry as anything other than an attempt to rewrite the history of election 2000 under the seal of a federal agency for the purpose of undermining the presidency of George W. Bush. On the other hand, the commission's report on Florida will serve a good purpose if it finally strips any remaining veneer of impartiality from the commission and provides Congress the impetus to eliminate a discredited body that long ago outlived its usefulness. ♦

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When Tony Meets George

Bush and Blair will turn out to have a lot in common.

By Irwin M. Stelzer

London

British prime minister Tony Blair comes to America this week to meet our new president, and the P.M.'s team is worried. Blair's fondness for Third Way schmoozing with Bill Clinton, his justified gratitude for the role Clinton played in stitching together a semi-peace in Ireland, and his natural center-left leanings made him an ideal partner for the outgoing administration, and gave him clear reason for hoping that Al Gore would be the next president.

Yet it may prove not to be such a bad thing for U.S.-U.K. relations that the prime minister's wish didn't come to pass. Although Gore as a Clinton clone appealed to the prime minister, the class warfare of the Gore campaign definitely did not. Blair has spent huge amounts of political capital, and risked his career to pull his Labour party away from its historic hatred of the rich and successful. He sees himself as every bit as much the leader of Middle England as of the declining band of industrial workers who populate Britain's trade unions.

What has escaped most observers is that Blair's New Labour creed is not all that different from Bush's compassionate conservatism. True, center-left Blair and center-right Bush differ as to the overall role of government in the economy and in the private lives of citizens (still "subjects" in Britain). Thanks to the tax burden on the British people that Blair's chancellor of the exchequer, Gordon Brown, has stealthily increased, government in that country claims for itself about 40 percent of all the goods and services the economy can produce—and rising. Since the figure is higher on the continent, Blair thinks it a modest impost.

Bush, of course, inherits a government that claims only about half that portion of the national income, and deems even that too much. Hence Bush's tax cut, which he proposed for government-shrinking, supply-side, incentive-creating reasons (and the anti-recessionary virtues he discovered only recently).

This difference as to the role of government, however, cannot obscure important similarities on domestic policy that should help the two leaders to find common ground when they spend the weekend together at Camp David. The president has put education at the top of his list, as has the prime minister, who famously declared his priorities to be "education, education, education," and last week told a meeting of head teachers: "Any government with any sense is going to make education its number one priority," adding—shades of Bush—that his "desire [is] to lift every child." Blair has pushed for national tests, with the results of each school's performance to be published, and for the closing of substandard schools, to be replaced by privately sponsored "City Academies."

The Blairites and the Bushies also think alike on welfare reform. Many of the Blair team are big fans of former governor (now secretary of health and human services) Tommy Thompson's welfare-to-work program: One of Blair's top aides recently argued to me that Britain's "welfare state now has an 'employment first' principle built into its operation," no small achievement for a party that still has a substantial bloc of old-left politicians and activists who view the dole as an entitlement, means testing as an insult, and an insistence that the able-bodied go to work as a form of capitalist exploitation. If any proof is needed that ideas travel, check the itineraries of the Blair policy wonks who have scoured the United States for ideas they might adopt to reform their nation's welfare system.

Finally, little separates Blair and Bush on the role of the private sector in the delivery of social services. The compassionate conservative's reliance on "faith-based organizations" is not very different from New Labour's encouragement of Muslim, Christian, and Jewish organizations to run many schools, and its reliance on the private sector to deliver services to the elderly and what it

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prefers to call "at-risk children"—carefully avoiding making it clear just who is at risk from these children!

So Blair may miss Clinton's ability to enfold him in the cuddly jargon of the Third Way—which never really was much more than new wine in old bottles. And Bush may know that he is entertaining a head of state who rather wishes Gore was at Camp David instead of teaching journalism at closed-to-the-press seminars at Columbia University, and that he—Bush—was still in Texas, a place like most others in America that Blair has never visited, and must imagine to be far less desirable than the politician-laden Washington he finds so congenial.

But that lack of chumminess is not necessarily a bad thing. As Henry Kissinger recently pointed out in an interview in the *Times* of London (it appeared under the headline "Kissinger says honeymoon is over for Blair"), "There was too much reliance on the kindred spirit in the previous [Blair-Clinton] relationship. . . . There needs to be more reliance on national self-interest. That will be a better basis for our relationship in the future."

Which puts it to the visiting prime minister to define in his own mind and for his hosts just how he sees Britain's national interest in a world in which he is being pulled by strong forces, many of them self-manufactured, away from his country's traditional alliance with ours. For Blair is between a French rock and an American hard place. It has been the unremitting goal of French policy since America joined Britain in liberating France from the Germans to reduce the role of America in Europe—indeed to drive us from the continent if possible. And it is the current goal of Tony Blair to be accepted by his French and continental friends as "a good European." As Blair sees it, he can then combine his nation's special relationship with America with his role as a leader of Europe to become an essential "bridge" between America and Europe. Throw in Blair's new, seemingly close relationship with Vladimir Putin, and you have Britain once again astride world politics, a key player with the Americans, the Russians, and the Europeans—punching above its weight, as the Foreign Office is fond of putting it.

Blair's special problem is that his fondness for the French, Germans, and the superstate they are trying to create in Europe far exceeds that of his countrymen. Europe wants one more thing from Blair: British membership in European monetary union. That Blair wants to scrap the pound for the euro—and to surrender control over interest rates and, as a consequence, fiscal policy to a Brussels bureaucracy—is no secret. True, he says he will do so only if the economic conditions are right, but he has recently made it clear that he will be mighty cross with his chancellor of the exchequer, the second most powerful British politician, if Brown fails to massage the data to show, *voilà*, it is indeed in Britain's interest to join.

But three out of four British voters want to keep the pound, rather than join Euroland. Which means that Blair can't give his European Union partners what they crave, his country's surrender of its monetary and fiscal sovereignty. So he has to give them something else. And that something is support for a new European army, designed to implement a European foreign policy and to confront America with a united Europe equal in population, wealth (well, almost), and power to the United States. A Gaullist dream come true.

This presents Blair with a problem, and one that he will have to resolve if his meeting with the president is to result in a real working relationship, rather than an exchange of polite pleasantries of the sort that his foreign secretary, Robin Cook, mistook for policy consensus on his recent visit to this country. Neither the French nor the Americans are likely to alter their policies to allow Blair the luxury of becoming a bridge between them. The French don't want to cross any bridges to meet America's security needs, and America wants Britain to maintain its long-standing role as an ally, rather than become a bridge too far.

So Blair will have to make two tough calls. The first is whether or not Britain will support America's efforts to put in place a missile defense system. Cook's advice is that Britain doesn't have to make a decision because it has not yet been asked. Cute, but no cigar. Richard Perle, who has emerged as a top Bush adviser on foreign and defense policy, used the occasion of a speech in London to describe Cook as a man who spent his "political adolescence among the unilateralists in the [anti-American, anti-nuclear-deterrent] Committee for Nuclear Disarmament, . . . eager to reaffirm [his] Cold War opposition to an American national missile defense system." And he reports that British defense minister Geoff Hoon's attempts to argue that the new European army is consistent with Britain's obligations to NATO are entirely unconvincing.

If he has to, Blair will most likely side with the Americans, and against the French, on the question of missile defense. French president Jacques Chirac, at last week's Franco-British summit in Cahors, parroted Russia's line and called such a system "a strong incitement to proliferation." But Blair has gotten defense secretary Donald Rumsfeld's message loud and clear: America will build such a system and would like Britain and our other allies to cooperate and to shelter under it. As a leading foreign policy adviser to Republicans put it to me, "Those

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nations that don't believe in such a system and do not want to be part of it can decide to do without our help in defending them from a missile attack by a rogue nation." Blair knows better than to do that, and he also knows that his country can benefit significantly from working with the Americans to develop the necessary technology.

It is on the question of the new army that Blair, who prefers to call the planned 60,000-strong land, sea, and air force a rapid reaction force, or a humanitarian force, or a police force, will find the going rough indeed. Cook sailed from meeting to meeting in Washington—by one count he saw 22 senators in addition to Bush's defense and foreign policy team—assuring everyone that the agreement between Britain and France at Nice does nothing to create a force independent of NATO.

Unfortunately for Blair, that is simply not true. The official document enshrining the Nice agreement refers to the "decision-making autonomy" of the European Union and NATO, to "autonomous EU action," to "preservation of the [European] Union's autonomy in decision making, in particular in the definition, evaluation, monitoring and follow-up of capability goals," to the fact that NATO and the new defense force "will be dealing with the other on an equal footing." Of course, "when there is a need for NATO expertise on specific subjects," the Europeans will supplement dialogue "by inviting NATO representatives to meetings." But the initiative will be with the EU, not with NATO. This hardly sounds like an organization that intends to subordinate itself to NATO. Which is why the French love it.

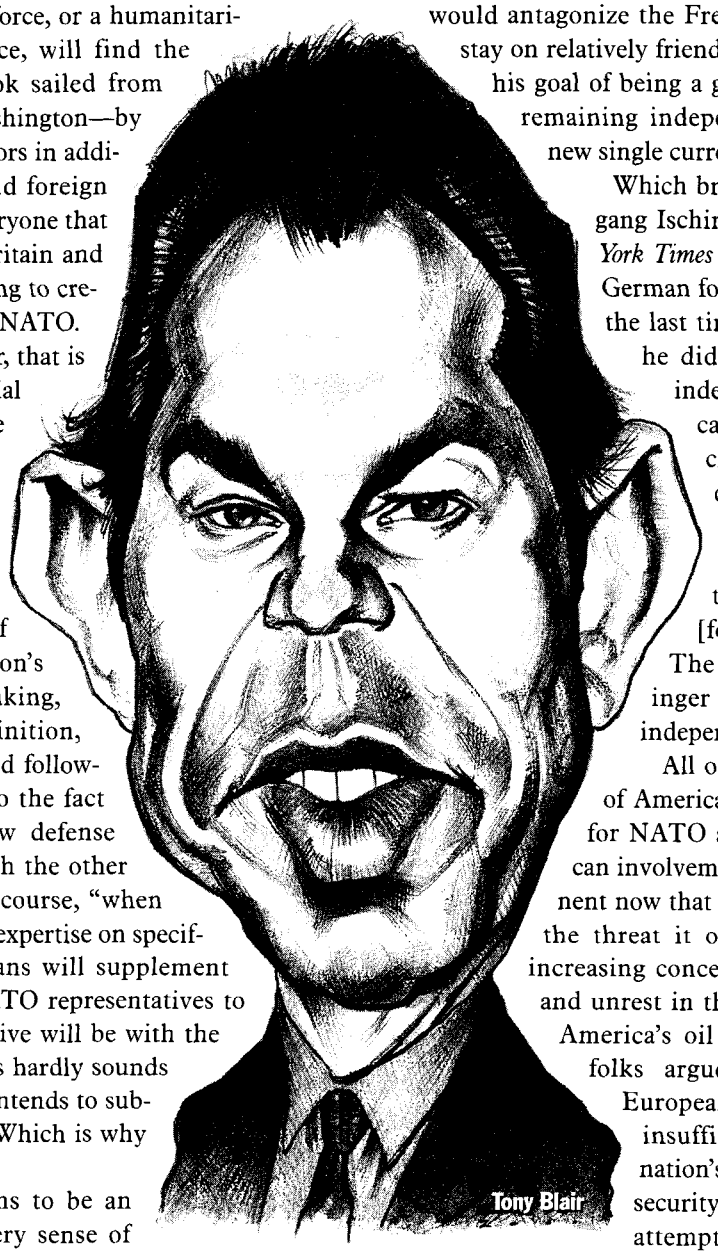
And it certainly seems to be an autonomous army in every sense of that word. The treaty specifies, "These forces should be militarily self-sustaining with the necessary command, control and intelligence capabilities, logistics, other combat support services and additionally, as appropriate, air and naval elements."

It may well be, as some critics point out, that this is all talk, and that the Europeans with their shrinking defense budgets will never be able to fight a real war, or even mount an effective combat action of any sort. But words matter. As one White House figure who is in regular contact with the president told me, "The British are always agreeing to words that they think don't matter, and then those words close in around them."

Just how Blair can bail himself out of the Nice treaty is unclear. Indeed, it is not clear that he wants to, as that would antagonize the French, with whom he must stay on relatively friendly terms if he is to achieve his goal of being a good European even while remaining independent of the continent's new single currency.

Which brings us to Germany. Wolfgang Ischinger, described in the *New York Times* as "a senior official in the German foreign ministry," noted that the last time Rumsfeld was in office he did not have to consider an independent European defense capability. Times have changed. "The fact is the development of the Union's defense identity is an accelerating process that it would be a mistake [for America] to oppose." The European Union, Ischinger added, is becoming "an independent actor."

All of this plays into the hands of Americans who question the need for NATO and for continued American involvement on the European continent now that Russia is no longer seen as the threat it once was. With China an increasing concern, North Korea a worry, and unrest in the Middle East a threat to America's oil supplies, why not, these folks argue, leave Europe to the Europeans? And if Tony Blair is insufficiently aware of his nation's history to want to link its security to the French rather than attempt to maintain what has come to be called "the special relationship"—that vague yet real force that has more than once linked the U.K. and the U.S. in defense of Western values—we will mourn our loss. And get on with building a foreign policy and security system that, Rumsfeld points out, it is the moral duty of the president to provide for our citizens. ♦


Tony Blair

Ismael Roldan

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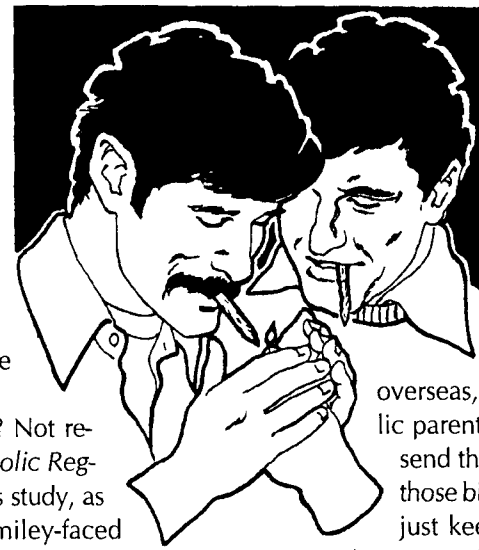
DEGENERATE PRIESTS: Deal With the Problem !

Recently *The Kansas City Star* reported on a major study it conducted on homosexuality and AIDS cases in the Catholic priesthood (the series ran in Knight Ridder papers nationwide). *The Star*'s now-famous verdict, based on death certificates of priests and other sources, was: "it appears that priests are dying of AIDS at a rate at least four times that of the general U.S. population...." According to *The Star*, this is a conservative estimate, for other statistics and experts put the rate at 7, 8, and even 11 times that of the general population.

The Star also sent a confidential survey to 3,000 priests, of whom 801 responded. Priests who said they "either have HIV or AIDS or might have but haven't been tested" were roughly 3½ times that of the general population.



Should Catholics be alarmed? Not really, according to the *National Catholic Register*, which pooh-poohed *The Star*'s study, as did *Our Sunday Visitor*, another smiley-faced Catholic paper.

About *The Star*'s survey of priests, a *Register* editorial said: "Almost three-quarters [73 percent]...never responded, which indicates the survey wasn't a reliable sample." For the sake of argument, let's accept the *Register*'s nay-saying, let's forget the death certificates, and let's go so far as to speculate — in the *Register*'s favor — that of the 2,199 priests who didn't respond to the survey, none has AIDS and none fears he might (which of course is extremely unlikely). If you do your math, that would mean that the percentage of priests who have AIDS or are engaging in AIDS-prone activity almost matches the general population. Yikes! If our priests — whom we expect to be *models* of Catholic morality and who take a *vow* of celibacy — are almost as degenerate as the general population, we've got a huge problem! Even if they're only half as degenerate, we've got a major problem. After all, they're *priests!*

The *Los Angeles Times* has reported that, according to Linkup, a group supporting victims of sexually immoral clergy, the Catholic Church nationwide "has paid $1 billion in lawsuit judgments and settlements since 1985." That's a staggering sum, most of it coming out of the pockets of the long-suffering and bewildered laity. Just imagine how many prolife projects could have been funded, how many *beautiful* churches could have been erected, how many missionaries could have been sent overseas, and how many hard-working Catholic parents could have gotten financial aid to send their children to Catholic schools with those billion dollars! And the scandals, which just keep coming, cast unwarranted suspicion on our faithful, moral priests.

When Catholic papers can be perceived as trying to shoot the messenger conveying the bad news, few Catholics are reassured. Moreover, Catholics are sick and tired of denials, damage-control, spins, P.R., and episcopal cover-ups and hush-hush pay-offs. Real Catholics demand a housecleaning!

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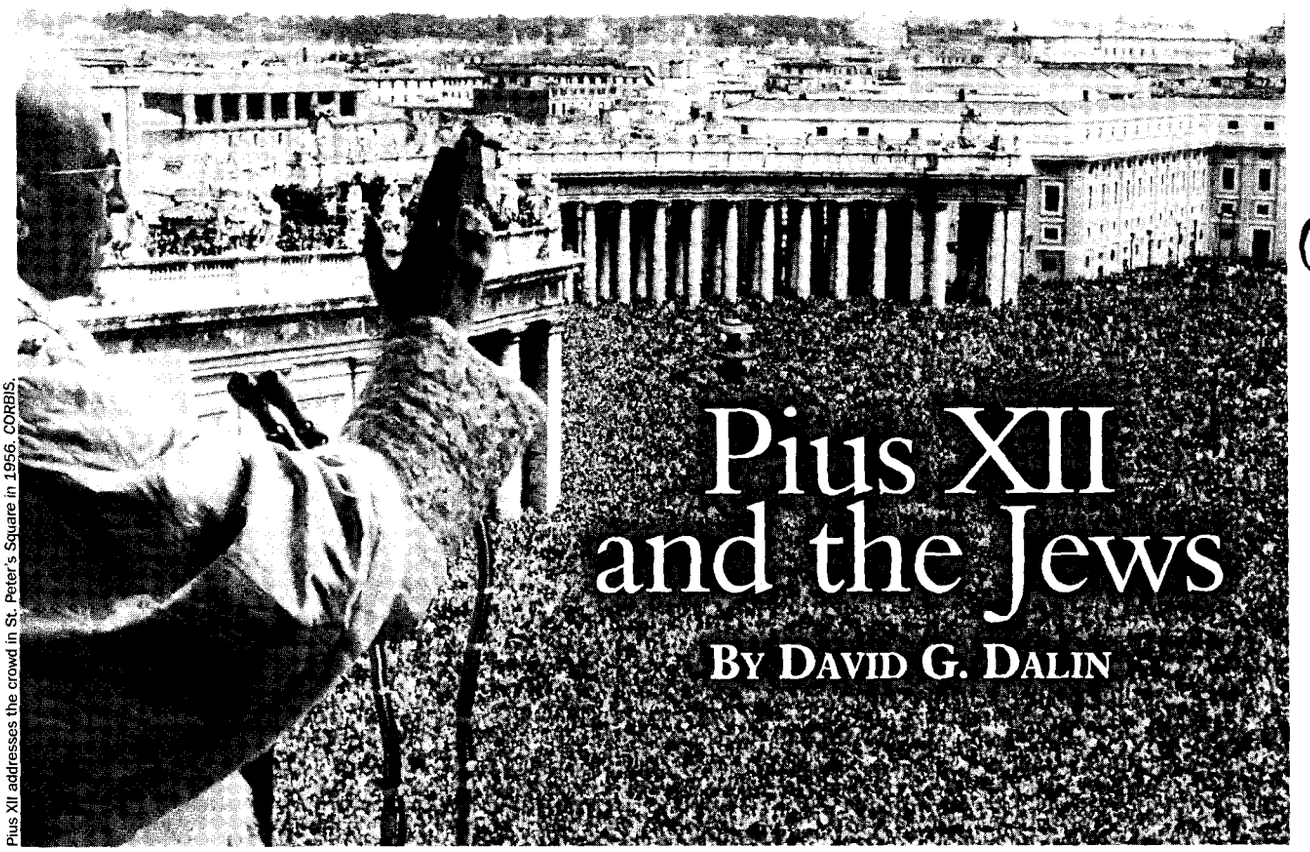

Pius XII addresses the crowd in St. Peter's Square in 1956. CORBIS.

Pius XII and the Jews

By David G. Dalin

Even before Pius XII died in 1958, the charge that his papacy had been friendly to the Nazis was circulating in Europe, a piece of standard Communist agitprop against the West.

It sank for a few years under the flood of tributes, from Jews and gentiles alike, that followed the pope's death, only to bubble up again with the 1963 debut of *The Deputy*, a play by a left-wing German writer (and former member of the Hitler Youth) named Rolf Hochhuth.

The Deputy was fictional and highly polemical, claiming that Pius XII's concern for Vatican finances left him indifferent to the destruction of European Jewry. But Hochhuth's seven-hour play nonetheless received considerable notice, sparking a controversy that lasted through the 1960s. And now, more than thirty years later, that controversy has suddenly broken out again, for reasons not immediately clear.

Indeed, "broken out" doesn't describe the current torrent. In the last eighteen months, nine books that treat Pius XII have appeared: John Cornwell's *Hitler's Pope*, Pierre Blet's *Pius XII and the Second World War*, Garry Wills's *Papal Sin*, Margherita Marchione's *Pope Pius XII*, Ronald J. Rychlak's *Hitler, the War and the Pope*, Michael Phayer's *The Catholic Church and the Holocaust, 1930-1965*, Susan Zuccotti's *Under His Very Windows*, Ralph McInerny's *The Defamation of Pius XII*, and, most recently, James Carroll's *Constantine's Sword*.

A rabbi and historian, David G. Dalin is the co-author most recently of The Presidents of the United States and the Jews.

Since four of these—the ones by Blet, Marchione, Rychlak, and McInerny—are defenses of the pope (and two, the books by Wills and Carroll, take up Pius only as part of a broad attack against Catholicism), the picture may look balanced. In fact, to read all nine is to conclude that Pius's defenders have the stronger case—with Rychlak's *Hitler, the War and the Pope* the best and most careful of the recent works, an elegant tome of serious, critical scholarship.

Still, it is the books vilifying the pope that have received most of the attention, particularly *Hitler's Pope*, a widely reviewed volume marketed with the announcement that Pius XII was "the most dangerous churchman in modern history," without whom "Hitler might never have . . . been able to press forward." The "silence" of the pope is becoming more and more firmly established as settled opinion in the American media: "Pius XII's elevation of Catholic self-interest over Catholic conscience was the lowest point in modern Catholic history," the *New York Times* remarked, almost in passing, in a review last month of Carroll's *Constantine's Sword*.

Curiously, nearly everyone pressing this line today—from the ex-seminarians John Cornwell and Garry Wills to the ex-priest James Carroll—is a lapsed or angry Catholic. For Jewish leaders of a previous generation, the campaign against Pius XII would have been a source of shock. During and after the war, many well-known Jews—Albert Einstein, Golda Meir, Moshe Sharett, Rabbi Isaac Herzog, and innumerable others—publicly expressed their gratitude to Pius. In his 1967 book *Three Popes and the Jews*, the diplomat Pinchas Lapide (who served as Israeli consul in Milan and interviewed Italian Holocaust survivors) declared Pius XII "was instrumental in saving at least 700,000, but probably as many as 860,000 Jews from certain death at Nazi hands."

This is not to say that Eugenio Pacelli—the powerful churchman who

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Viking

served as nuncio in Bavaria and Germany from 1917 to 1929, then as Vatican secretary of state from 1930 to 1939, before becoming Pope Pius XII six months before World War II began—was as much a friend to the Jews as John Paul II has been. Nor is it to say that Pius was ultimately successful as a defender of Jews. Despite his desperate efforts to maintain peace, the war came, and, despite his protests against German atrocities, the slaughter of the Holocaust occurred. Even without benefit of hindsight, a careful study reveals that the Catholic Church missed opportunities to influence events, failed to credit fully the Nazis' intentions, and was infected in some of its members with a casual anti-Semitism that would countenance—and, in a few horrifying instances, affirm—the Nazi ideology.

But to make Pius XII a target of our moral outrage against the Nazis, and to count Catholicism among the institutions delegitimized by the horror of the Holocaust, reveals a failure of historical understanding. Almost none of the recent books about Pius XII and the Holocaust is actually about Pius XII and the Holocaust. Their real topic proves to be an intra-Catholic argument about the direction of the Church today, with the Holocaust simply the biggest club available for liberal Catholics to use against traditionalists.

A theological debate about the future of the papacy is obviously something in which non-Catholics should not involve themselves too deeply. But Jews, whatever their feelings about the Catholic Church, have a duty to reject any attempt to usurp the Holocaust and use it for partisan purposes in such a debate—particularly when the attempt disparages the testimony of Holocaust survivors and spreads to inappropriate figures the condemnation that belongs to Hitler and the Nazis.

Pius XII and the Second World War
According to the Archives of the Vatican
by Pierre Blet
Paulist, 416 pp., $29.95

Constantine's Sword
The Church and the Jews: A History
by James Carroll
Houghton Mifflin, 576 pp., $28

Hitler's Pope
The Secret History of Pius XII
by John Cornwell
Viking, 430 pp., $29.95

Pope Pius XII
Architect for Peace
by Margherita Marchione
Paulist, 256 pp., $22.95

The Defamation of Pius XII
by Ralph McInerny
St. Augustine's, 223 pp., $19

The Catholic Church and the Holocaust, 1930-1965
by Michael Phayer
Indiana University Press, 328 pp., $29.95

Hitler, the War and the Pope
by Ronald J. Rychlak
Genesis, 470 pp., $26.95

Papal Sin
Structures of Deceit
by Garry Wills
Doubleday, 326 pp., $25

Under His Very Windows
The Vatican and the Holocaust in Italy
by Susan Zuccotti
Yale University Press, 352 pp., $29.95

The technique for recent attacks on Pius XII is simple. It requires only that favorable evidence be read in the worst light and treated to the strictest test, while unfavorable evidence is read in the best light and treated to no test.

So, for instance, when Cornwell sets out in *Hitler's Pope* to prove Pius an anti-Semite (an accusation even the pontiff's bitterest opponents have rarely leveled), he makes much of Pacelli's reference in a 1917 letter to the "Jewish cult"—as though for an Italian Catholic prelate born in 1876 the word "cult" had the same resonances it has in English today, and as though Cornwell himself does not casually refer to the Catholic cult of the Assumption and the cult of the Virgin Mary. (The most immediately helpful part of *Hitler, the War and the Pope* may be the thirty-page epilogue Rychlak devotes to demolishing this kind of argument in *Hitler's Pope*.)

The same pattern is played out in Susan Zuccotti's *Under His Very Windows*. For example: There exists testimony from a Good Samaritan priest that Bishop Giuseppe Nicolini of Assisi, holding a letter in his hand, declared that the pope had written to request help for Jews during the German roundup of Italian Jews in 1943. But because the priest did not actually read the letter, Zuccotti speculates that the bishop may have been deceiving him—and thus that this testimony should be rejected.

Compare this skeptical approach to evidence with her treatment, for example, of a 1967 interview in which the German diplomat Eitel F. Mollhausen said he had sent information to the Nazis' ambassador to the Vatican, Ernst von Weizsäcker, and "assumed" that Weizsäcker passed it on to Church "officials." Zuccotti takes this as un-

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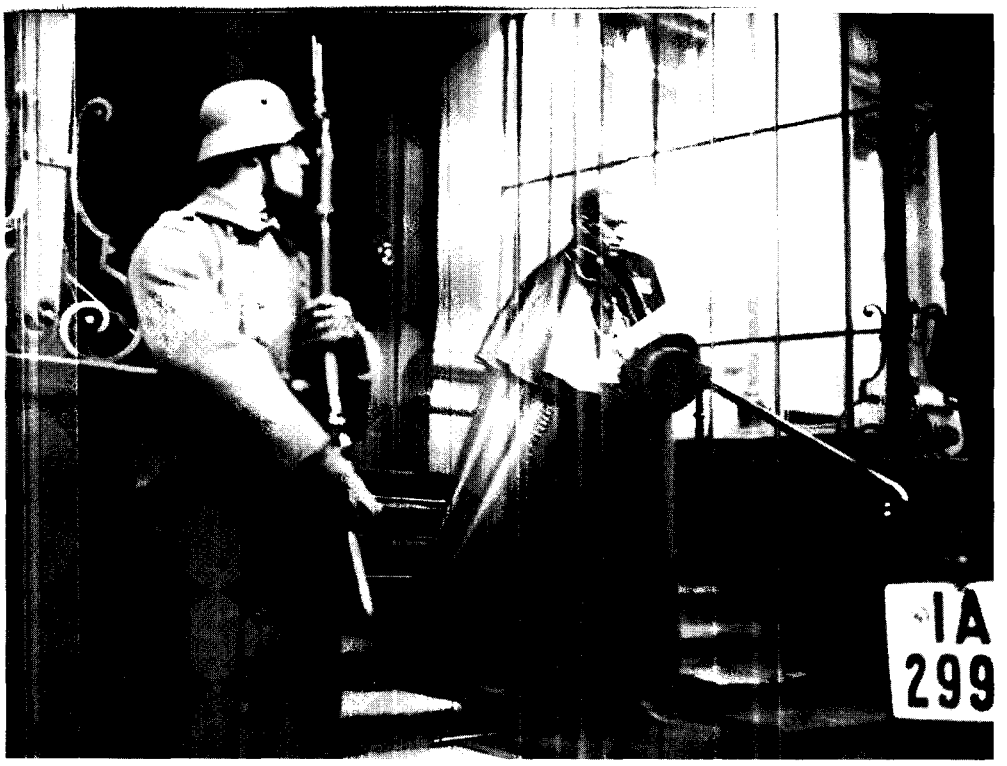
questionable proof that the pope had direct foreknowledge of the German roundup. (A fair reading suggests Pius had heard rumors and raised them with the Nazi occupiers. Princess Enza Pignatelli Aragona reported that when she broke in on the pope with the news of the roundup early on the morning of October 16, 1943, his first words were: "But the Germans had promised not to touch the Jews!")

With this dual standard, recent writers have little trouble arriving at two pre-ordained conclusions. The first is that the Catholic Church must shoulder the blame for the Holocaust: "Pius XII was the most guilty," as Zuccotti puts it. And the second is that Catholicism's guilt is due to aspects of the Church that John Paul II now represents.

Indeed, in the concluding chapter of *Hitler's Pope* and throughout *Papal Sin* and *Constantine's Sword*, the parallel comes clear: John Paul's traditionalism is of a piece with Pius's alleged anti-Semitism; the Vatican's current stand on papal authority is in a direct line with complicity in the Nazis' extermination of the Jews. Faced with such monstrous moral equivalence and misuse of the Holocaust, how can we not object?



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Above: Eugenio Pacelli as papal nuncio in Germany in the 1920s. Below, as pope in Rome, 1943. Opposite page: as archbishop in 1917 and as secretary of state in 1930.

It is true that during the controversy over *The Deputy* and again during the Vatican's slow hearing of the case for his canonization (ongoing since 1965), Pius had Jewish detractors. In 1964, for example, Guenter Lewy produced *The Catholic Church and Nazi Germany*, and, in 1966, Saul Friedländer added *Pius XII and the Third Reich*. Both volumes claimed that Pius's anti-communism led him to support Hitler as a bulwark against the Russians.

As accurate information on Soviet atrocities has mounted since 1989, an obsession with Stalinism seems less foolish than it may have in the mid-1960s. But, in fact, the evidence has mounted as well that Pius accurately ranked the threats. In 1942, for example, he told a visitor, "The Communist danger does exist, but at this time the Nazi danger is more serious." He intervened with the American bishops to support lend-lease for the Soviets, and he explicitly refused to bless the Nazi invasion of Russia. (The charge of overheated anti-communism is nonetheless still alive: In *Constantine's Sword*, James Carroll attacks the 1933 concordat Hitler signed for Germany by asking, "Is it conceivable that Pacelli would have negotiated any such agreement with the Bolsheviks in Moscow?"—apparently not realizing that in the mid-1920s, Pacelli tried exactly that.)

Viking

In any case, Pius had his Jewish defenders as well. In addition to Lapide's *Three Popes and the Jews*, one might list *A Question of Judgment*, the 1963 pamphlet from the Anti-Defamation League's Joseph Lichten, and the excoriating reviews of Friedländer by Livia Rotkirchen, the historian of Slovakian Jewry at Yad Vashem. Jeno Levai, the great Hungarian historian, was so angered by accusations of papal silence that he wrote *Pius XII Was Not Silent* (published in English in 1968), with a powerful introduction by Robert M.W. Kempner, deputy chief U.S. prosecutor at Nuremberg.

In response to the new attacks on Pius, several Jewish scholars have spoken out over the last year. Sir Martin

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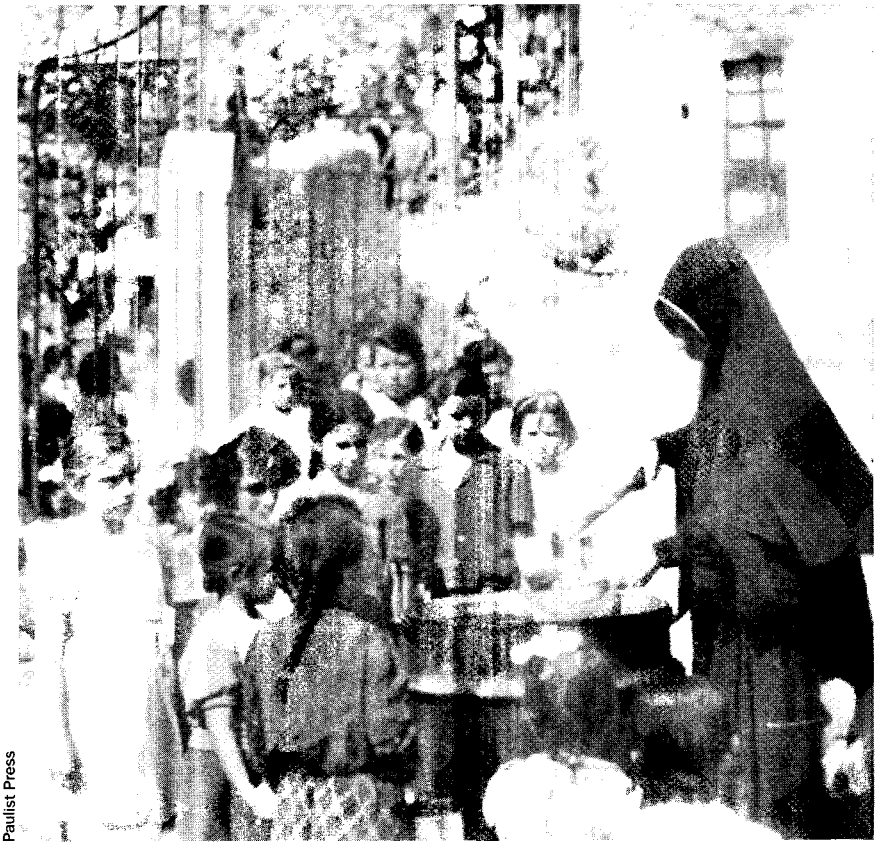

Paulist Press

Refugee children in Monte Cassino

Gilbert told an interviewer that Pius deserves not blame but thanks. Michael Tagliacozzo, the leading authority on Roman Jews during the Holocaust, added, "I have a folder on my table in Israel entitled 'Calumnies Against Pius XII.' . . . Without him, many of our own would not be alive." Richard Breitman (the only historian authorized to study U.S. espionage files from World War II) noted that secret documents prove the extent to which "Hitler distrusted the Holy See because it hid Jews."

Still, Lapide's 1967 book remains the most influential work by a Jew on the topic, and in the thirty-four years since he wrote, much material has become available in the Vatican's archives and elsewhere. New oral-history centers have gathered an impressive body of interviews with Holocaust survivors, military chaplains, and Catholic civilians. Given the recent attacks, the time has come for a new defense of Pius—because, despite allegations to the contrary, the best historical evidence now confirms both that Pius XII was not silent and that almost no one at the time thought him so.

In January 1940, for instance, the pope issued instructions for Vatican Radio to reveal "the dreadful cruelties of uncivilized tyranny" the Nazis were inflicting on Jewish and Catholic Poles. Reporting the broadcast the following week, the *Jewish Advocate* of Boston praised it for what it was: an "outspoken denunciation of German atrocities in Nazi Poland, declaring they affronted the moral conscience of mankind." The *New York Times* editorialized: "Now the Vatican has spoken, with authority that cannot be questioned, and has confirmed the worst intimations of terror which have come out of the Polish darkness." In England, the *Manchester Guardian* hailed Vatican Radio as "tortured Poland's most powerful advocate."

Any fair and thorough reading of the evidence demonstrates that Pius XII was a persistent critic of Nazism. Consider just a few highlights of his opposition before the war:

- Of the forty-four speeches Pacelli gave in Germany as papal nuncio between 1917 and 1929, forty denounced some aspect of the emerging Nazi ideology.
- In March 1935, he wrote an open letter to the bishop of Cologne calling the Nazis "false prophets with the pride of Lucifer."
- That same year, he assailed ideologies "possessed by the superstition of race and blood" to an enormous crowd of pilgrims at Lourdes. At Notre Dame in Paris two years later, he named Germany "that noble and powerful nation whom bad shepherds would lead astray into an ideology of race."

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Refugees at Castel Gandolfo during the Roman round-up

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• The Nazis were "diabolical," he told friends privately. Hitler "is completely obsessed," he said to his longtime secretary, Sister Pascalina. "All that is not of use to him, he destroys; . . . this man is capable of trampling on corpses." Meeting in 1935 with the heroic anti-Nazi Dietrich von Hildebrand, he declared, "There can be no possible reconciliation" between Christianity and Nazi racism; they were like "fire and water."

• The year after Pacelli became secretary of state in 1930, Vatican Radio was established, essentially under his control. The Vatican newspaper *L'Osservatore Romano* had an uneven record, though it would improve as Pacelli gradually took charge (extensively reporting *Kristallnacht* in 1938, for example). But the radio station was always good—making such controversial broadcasts as the request that listeners pray for the persecuted Jews in Germany after the 1935 Nuremberg Legislation.

• It was while Pacelli was his predecessor's chief adviser that Pius XI made the famous statement to a group of Belgian pilgrims in 1938 that "anti-Semitism is inadmissible; spiritually we are all Semites." And it was Pacelli who drafted Pius XI's encyclical *Mit brennender Sorge*, "With Burning Concern," a condemnation of Germany among the harshest ever issued by the Holy See. Indeed, throughout the 1930s, Pacelli was widely lampooned in the Nazi press as Pius XI's "Jew-loving" cardinal, because of the more than fifty-five protests he sent the Germans as the Vatican secretary of state.

To these must be added highlights of Pius XII's actions during the war:

• His first encyclical, *Summi Pontificatus*, rushed out in 1939 to beg for peace, was in part a declaration that the proper role of the papacy was to plead to both warring sides rather than to blame one. But it very pointedly quoted St. Paul—"there is neither Gentile nor Jew"—using the word "Jew" specifically in the context of rejecting racial ideology. The *New York Times* greeted the encyclical with a front-page headline on October 28, 1939: "Pope Condemns Dictators, Treaty Violators, Racism." Allied airplanes dropped thousands of copies on Germany in an effort to raise anti-Nazi sentiment.

CORBIS

[illegible] from Latvia, and girl from Hungary [illegible] liberation from Buchenwald, 1945.

• In 1939 and 1940, Pius acted as a secret intermediary between the German plotters against Hitler and the British. He would similarly risk warning the Allies about the impending German invasions of Holland, Belgium, and France.

• In March 1940, Pius granted an audience to Joachim von Ribbentrop, the German foreign minister and the only high-ranking Nazi to bother visiting the Vatican. The Germans' understanding of Pius's position, at least, was clear: Ribbentrop chastised the pope for siding with the Allies. Whereupon Pius began reading from a long list of German atrocities. "In the burning words he spoke to Herr Ribbentrop," the *New York Times* reported on March 14, Pius "came to the defense of Jews in Germany and Poland."

• When French bishops issued pastoral letters in 1942 attacking deportations, Pius sent his nuncio to protest to the Vichy government against "the inhuman arrests and deportations of Jews from the French-occupied zone to

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Pius XII blessing American chaplains and troops after liberation of Rome, June 7, 1944.

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Die Frankreich-Reise des Kardinals

Das Schwarze Korps, July 22, 1937. Burns Oates.

Schön ist sie ja nicht. Aber sie kann gut kochen!

A Nazi cartoon mocking Pacelli as a supporter of French Jews and Communists.

Silesia and parts of Russia." Vatican Radio commented on the bishops' letters six days in a row—at a time when listening to Vatican Radio was a crime in Germany and Poland for which some were put to death. ("Pope Is Said to Plead for Jews Listed for Removal from France," the *New York Times* headline read on August 6, 1942. "Vichy Seizes Jews; Pope Pius Ignored," the *Times* reported three weeks later.) In retaliation, in the fall of 1942, Goebbels's office distributed ten million copies of a pamphlet naming Pius XII as the "pro-Jewish pope" and explicitly citing his interventions in France.

• In the summer of 1944, after the liberation of Rome but before the war's end, Pius told a group of Roman Jews who had come to thank him for his protection: "For centuries, Jews have been unjustly treated and despised. It is time they were treated with justice and humanity, God wills it and the Church wills it. St. Paul tells us that the Jews are our brothers. They should also be welcomed as friends."

As these and hundreds of other examples are disparaged, one by one, in recent books attacking Pius XII, the reader loses sight of the huge bulk of them, their cumulative effect that left no one, the Nazis least of all, in doubt about the pope's position.

A deeper examination reveals the consistent pattern. Writers like Cornwell and Zuccotti see the pope's 1941 Christmas address, for example, as notable primarily for its failure to use the language we would use today. But contemporary observers thought it quite explicit. In its editorial the following day, the *New York Times* declared, "The voice of Pius XII is a lonely voice in the silence and darkness enveloping Europe this Christmas.... In calling for a 'real new order' based on 'liberty, justice, and love,'... the pope put himself squarely against Hitlerism."

So, too, the pope's Christmas message the following year—in which he expressed his concern "for those hundreds of thousands who, without any fault of their own, sometimes only by reason of their nationality or race, are marked down for death or progressive extinction"—was widely understood to be a public condemnation of the Nazi extermination of the Jews. Indeed, the Germans themselves saw it as such: "His speech is one long attack on everything we stand for.... He is clearly speaking on behalf of the Jews.... He is virtually accusing the German people of injustice toward the Jews, and makes himself the mouthpiece of the Jewish war criminals," an internal Nazi analysis reads.

This Nazi awareness, moreover, had potentially dire consequences. There were ample precedents for the pope to fear an invasion: Napoleon had besieged the Vatican in 1809, capturing Pius VII at bayonet point; Pius IX fled Rome for his life after the assassination of his chancellor; and Leo XIII was driven into temporary exile in the late nineteenth century.

Still, Pius XII was "ready to let himself be deported to a concentration camp, rather than do anything against his conscience," Mussolini's foreign minister railed. Hitler spoke openly of entering the Vatican to "pack up that whole whoring rabble," and Pius knew of the various Nazi plans to kidnap him. Ernst von Weizsäcker has written that he regularly warned Vatican officials against provoking Berlin. The Nazi ambassador to Italy, Rudolf Rahn, similarly describes one of Hitler's kidnapping plots and the effort by German diplomats to prevent it. General Carlo Wolff testified to having received orders from Hitler in 1943 to "occupy as soon as possible the Vatican and Vatican City, secure the archives and the art treasures, which have a unique value, and transfer the pope, together with the Curia, for their protection, so that they cannot fall into the hands of the Allies and exert a political influence." Early in December 1943, Wolff managed to talk Hitler out of the plan.

In assessing what actions Pius XII might have taken, many (I among

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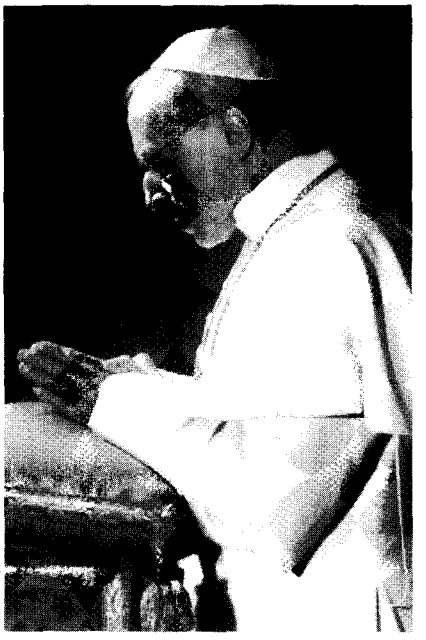
them) wish that explicit excommunications had been announced. The Catholic-born Nazis had already incurred automatic excommunication, for everything from failure to attend Mass to unconfessed murder to public repudiation of Christianity. And, as his writings and table-talk make clear, Hitler had ceased to consider himself a Catholic—indeed, considered himself an *anti*-Catholic—long before he came to power. But a papal declaration of excommunication might have done some good.

Then again, it might not. Don Luigi Sturzo, founder of the Christian Democratic movement in wartime Italy, pointed out that the last times "a nominal excommunication was pronounced against a head of state," neither Queen Elizabeth I nor Napoleon had changed policy. And there is reason to believe provocation would, as Margherita Marchione puts it, "have resulted in violent retaliation, the loss of many more Jewish lives, especially those then under the protection of the Church, and an intensification of the persecution of Catholics."

Holocaust survivors such as Marcus Melchior, the chief rabbi of Denmark, argued that "if the pope had spoken out, Hitler would probably have massacred more than six million Jews and perhaps ten times ten million Catholics, if he had the power to do so." Robert M.W. Kempner called upon his experience at the Nuremberg trials to say (in a letter to the editor after *Commentary* published an excerpt from Guenter Lewy in 1964), "Every propaganda move of the Catholic Church against Hitler's Reich would have been not only 'provoking suicide,' . . . but would have hastened the execution of still more Jews and priests."

This is hardly a speculative concern. A Dutch bishops' pastoral letter condemning "the unmerciful and unjust treatment meted out to Jews" was read in Holland's Catholic churches in July 1942. The well-intentioned letter—which declared that it was inspired by Pius XII—backfired. As Pinchas Lapide notes: "The saddest and most thought-provoking conclusion is that whilst the Catholic clergy in Holland protested more loudly, expressly, and frequently against Jewish persecutions than the religious hierarchy of any other Nazi-occupied country, more Jews—some 110,000 or 79 percent of the total—were deported from Holland to death camps."

Bishop Jean Bernard of Luxembourg, an inmate of Dachau from 1941 to 1942, notified the Vatican that "whenever protests were made, treatment of prisoners worsened immediately." Late in 1942, Archbishop Sapieha of



Pontifical Press

Cracow and two other Polish bishops, having experienced the Nazis' savage reprisals, begged Pius not to publish his letters about conditions in Poland. Even Susan Zuccotti admits that in the case of the Roman Jews the pope "might well have been influenced by a concern for Jews in hiding and for their Catholic protectors."

One might ask, of course, what could have been worse than the mass murder of six million Jews? The answer is the slaughter of hundreds of thousands more. And it was toward saving those it could that the Vatican worked. The fate of Italian Jews has become a major topic of Pius's critics, the failure of Catholicism at its home supposedly demonstrating the hypocrisy of any modern papal claim to moral authority. (Notice, for example, Zuccotti's title: *Under His Very Windows*.) But the fact remains that while approximately 80 percent of European Jews perished during World War II, 80 percent of Italian Jews were saved.

In the months Rome was under German occupation, Pius XII instructed Italy's clergy to save lives by all means. (A neglected source for Pius's actions during this time is the 1965 memoir *But for the Grace of God*, by Monsignor J. Patrick Carroll-Abbing, who worked under Pius as a rescuer.) Beginning in October 1943, Pius asked churches and convents throughout Italy to shelter Jews. As a result—and despite the fact that Mussolini and the Fascists yielded to Hitler's demand for deportations—many Italian Catholics defied the German orders.

In Rome, 155 convents and monasteries sheltered some five thousand Jews. At least three thousand found refuge at the pope's summer residence at Castel Gandolfo. Sixty Jews lived for nine months at the Gregorian University, and many were sheltered in the cellar of the pontifical biblical institute. Hundreds found sanctuary within the Vatican itself. Following Pius's instructions, individual Italian priests, monks, nuns, cardinals, and bishops were instrumental in preserving thousands of Jewish lives. Cardinal Boetto of Genoa saved at least eight hundred. The bishop of Assisi hid three hundred Jews for over two years. The bishop of Campagna and two of his relatives saved 961 more in Fiume.

Cardinal Pietro Palazzini, then assistant vice rector of the Seminario Romano, hid Michael Tagliacozzo and other Italian Jews at the seminary (which was Vatican property) for several months in 1943 and 1944. In 1985, Yad Vashem, Israel's Holocaust Memorial, honored the cardinal as a righteous gentile—and, in accepting the honor, Palazzini stressed that "the merit is entirely Pius XII's, who ordered us to do whatever we could to save the Jews from persecution." Some of the laity helped as well, and, in their testimony afterwards, consistently attributed their inspiration to the pope.

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Courtesy Margherita Marchione

The Israeli Philharmonic in the Vatican with Pius XII, May 26, 1955.

Again, the most eloquent testimony is the Nazis' own. Fascist documents published in 1998 (and summarized in Marchione's *Pope Pius XII*) speak of a German plan, dubbed "Rabat-Fohn," to be executed in January 1944. The plan called for the eighth division of the SS cavalry, disguised as Italians, to seize St. Peter's and "massacre Pius XII with the entire Vatican"—and specifically names "the papal protest in favor of the Jews" as the cause.

A similar story can be traced across Europe. There is room to argue that more ought to have been attempted by the Catholic Church—for the unanswerable facts remain that Hitler did come to power, World War II did occur, and six million Jews did die. But the place to begin that argument is with the truth that people of the time, Nazis and Jews alike, understood the pope to be the world's most prominent opponent of the Nazi ideology:

• As early as December 1940, in an article in *Time* magazine, Albert Einstein paid tribute to Pius: "Only the Church stood squarely across the path of Hitler's campaign for suppressing the truth. I never had any special interest in the Church before, but now I feel a great affection and admiration because the Church alone has had the courage and persistence to stand for intellectual truth and moral freedom. I am forced thus to confess that what I once despised, I now praise unreservedly."

• In 1943, Chaim Weizmann, who would become Israel's first president, wrote that "the Holy See is lending its powerful help wherever it can, to mitigate the fate of my persecuted co-religionists."

• Moshe Sharett, Israel's second prime minister, met with Pius in the closing days of the war and "told him that my first duty was to thank him, and through him the Catholic Church, on behalf of the Jewish public for all they had done in the various countries to rescue Jews."

• Rabbi Isaac Herzog, chief rabbi of Israel, sent a message in February 1944 declaring, "The people of Israel will never forget what His Holiness and his illustrious delegates, inspired by the eternal principles of religion, which form the very foundation of true civilization, are doing for our unfortunate brothers and sisters in the most tragic hour of our history, which is living proof of Divine Providence in this world."

• In September 1945, Leon Kubowitzky, secretary general of the World Jewish Congress, personally thanked the pope for his interventions, and the World Jewish Congress donated $20,000 to Vatican charities "in recognition of the work of the Holy See in rescuing Jews from Fascist and Nazi persecutions."

• In 1955, when Italy celebrated the tenth anniversary of its liberation, the Union of Italian Jewish Communities proclaimed April 17 a "Day of Gratitude" for the pope's wartime assistance.

• On May 26, 1955, the Israeli Philharmonic Orchestra flew to Rome to give in the Vatican a special performance of Beethoven's Seventh Symphony—an expression of the State of Israel's enduring gratitude to the pope for help given the Jewish people during the Holocaust.

This last example is particularly significant. As a matter of state policy, the Israeli Philharmonic has never played the music of Richard Wagner, because of his well-known reputation as "Hitler's composer," the cultural patron saint of the Third Reich. During the 1950s especially, the Israeli public, hundreds of thousands of whom were Holocaust survivors, still viewed Wag-

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ner as a symbol of the Nazi regime. It is inconceivable that the Israeli government would have paid for the entire orchestra to travel to Rome to pay tribute to "Hitler's pope." On the contrary, the Israeli Philharmonic's unprecedented concert in the Vatican was a unique communal gesture of collective recognition for a great friend of the Jewish people.

Hundreds of other memorials could be cited. In her conclusion to *Under His Very Windows*, Susan Zuccotti dismisses—as wrong-headed, ill-informed, or even devious—the praise Pius XII received from Jewish leaders and scholars, as well as expressions of gratitude from the Jewish chaplains and Holocaust survivors who bore personal witness to the assistance of the pope.

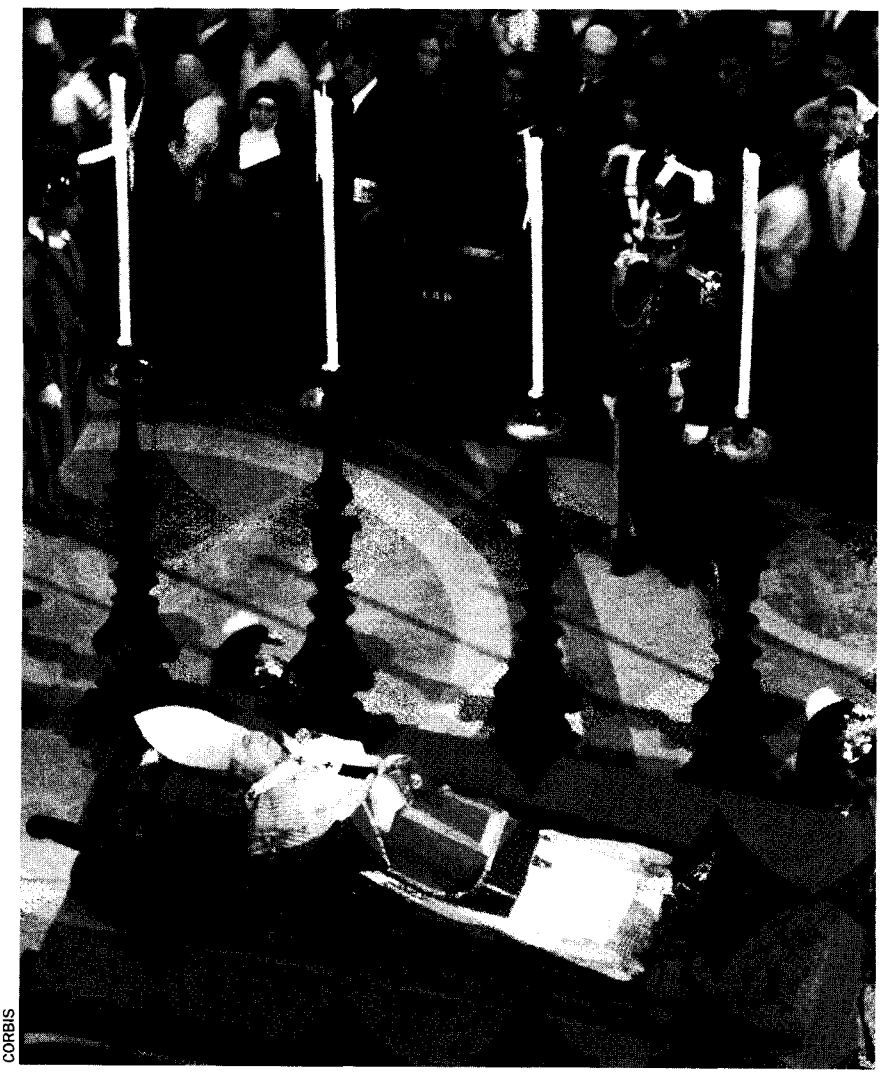
That she does so is disturbing. To deny the legitimacy of their gratitude to Pius XII is tantamount to denying the credibility of their personal testimony and judgment about the Holocaust itself. "More than all others," recalled Elio Toaff, an Italian Jew who lived through the Holocaust and later became chief rabbi of Rome, "we had the opportunity of experiencing the great compassionate goodness and magnanimity of the pope during the unhappy years of the persecution and terror, when it seemed that for us there was no longer an escape."

But Zuccotti is not alone. There is a disturbing element in nearly all the current work on Pius. Except for Rychlak's *Hitler, the War and the Pope*, none of the recent books—from Cornwell's vicious attack in *Hitler's Pope* to McInerny's uncritical defense in *The Defamation of Pius XII*—is finally about the Holocaust. All are about using the sufferings of Jews fifty years ago to force changes upon the Catholic Church today.

It is this abuse of the Holocaust that must be rejected. A true account of Pius XII would arrive, I believe, at exactly the opposite to Cornwell's conclusion: Pius XII was not Hitler's pope, but the closest Jews had come to having a papal supporter—and at the moment when it mattered most.

Writing in *Yad Vashem Studies* in 1983, John S. Conway—the leading authority on the Vatican's eleven-volume *Acts and Documents of the Holy See During the Second World War*—concluded: "A close study of the many thousands of documents published in these volumes lends little support to the thesis that ecclesiastical self-preservation was the main motive behind the attitudes of the Vatican diplomats. Rather, the picture that emerges is one of a group of intelligent and conscientious men, seeking to pursue the paths of peace and justice, at a time when these ideals were ruthlessly being rendered irrelevant in a world of 'total war.'" These neglected volumes (which the English reader can find summarized in Pierre Blet's *Pius XII and the Second World War*) "will reveal ever more clearly and convincingly"—as John Paul told a group of Jewish leaders in Miami in 1987—"how deeply Pius XII felt the tragedy of the Jewish people, and how hard and effectively he worked to assist them."

The Talmud teaches that "whosoever preserves one life, it is accounted to him by Scripture as if he had preserved a whole world." More than any other twentieth-century leader, Pius fulfilled this Talmudic dictum, when the fate of European Jewry was at stake. No other pope had been so widely praised by Jews—and they were not mistaken. Their gratitude, as well as that of the entire generation of Holocaust survivors, testifies that Pius XII was, genuinely and profoundly, a righteous gentile. ♦



CORBIS

Pius XII lying in state, 1958.

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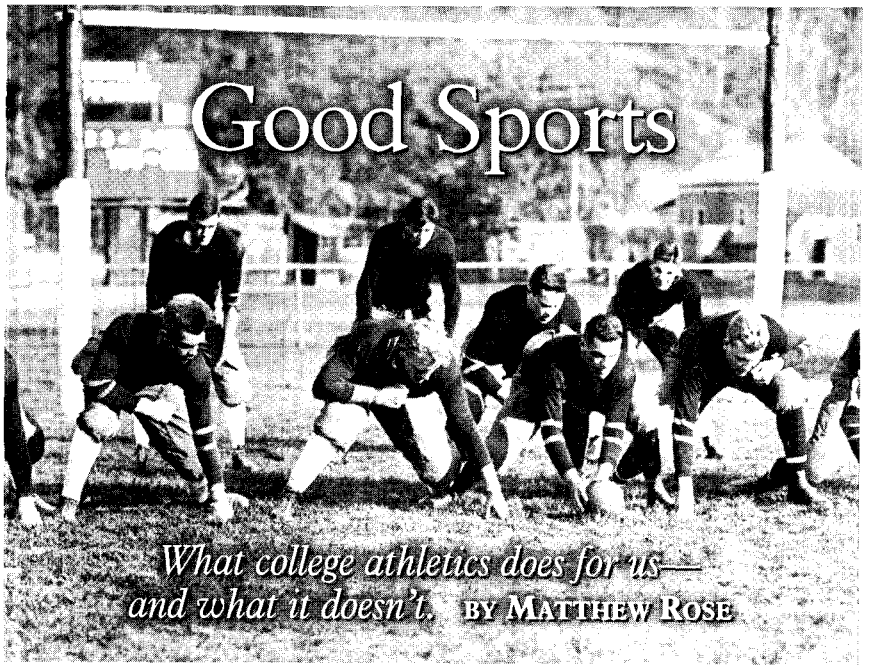

The Cornell football squad, 1913. CORBIS

Good Sports

What college athletics does for us—and what it doesn't. BY MATTHEW ROSE

High-minded boosters of college athletics in America like to quote the Duke of Wellington—"The Battle of Waterloo was won on the playing fields of Eton"—leaving the rest of us to connect Eton with Florida State and Waterloo with, well, jobs in politics and modern corporations. It's not a connection of geometric necessity. Sure, Bill Bradley was a varsity athlete at Princeton, but so was the parent-murderer Lyle Menendez, and the athletes being groomed by major college programs for professional basketball and football seem to have launched in recent years a concerted effort to embarrass their schools.

Still, the belief that athletics are *the* training ground for the game of life remains a much-hallowed one in America, where our definition of "well-rounded" would exclude Leonardo da Vinci for want of a slap-shot. Speaker Denny Hastert, for example, is a true believer in sports: "A lot of what I do as speaker of the house is just my old wrestling-coach philosophy."

So what role do sports really play on campuses? Are athletic skills transferable into social virtues, or should we think of college athletes as (to quote William Faulkner) a collection of "quarter-wits, half-wits and three-quarter wits"? One place to begin deciding is with *The Game of Life: College Sports and Educational Values* by James Shulman and William Bowen. Injecting some much-needed data into the charged anecdotes, colorful histories, and overheated loyalties of college athletics, Shulman and Bowen study the lives of athletes from the 1950s, 1970s, and 1990s at thirty-two institutions, including large public universities, Ivy League Schools, private universities, and liberal-arts colleges. Their goal is to see what role sports play both in college and beyond; what type of students athletes are; and what type of people they become. Their method is plodding (for each issue, a regression analysis), and their prose is nearly unbearable (for each adjective, a pair of quotation marks). But for those iron-willed enough to survive a full data-assault, a startling picture appears.

The Game of Life
College Sports and Educational Values
by William G. Bowen and James L. Shulman
Princeton Univ. Press, 447 pp., $27.95

Shulman and Bowen first coolly disprove the prevailing rationales used by advocates of college sports. It's not true, for example, that an athlete is more likely to assume public or private leadership roles (except in sports clubs and youth athletic groups such as Little League). Nor is it the case that athletes are more financially committed to the school as alumni (athletes don't give much more money, and what money is given is often earmarked for athletics). Aggressive athletic recruitment also fails to strengthen the socioeconomic or racial diversity of student bodies (subtract black male athletes from the student body and black enrollment decreases a paltry 1 percent). The biggest myth of all—that athletic revenue amply bankrolls other programs—is revealed to be sheer buncombe. If athletics at the University of Michigan remains in the red after its football squad hauled in 111,000 fans per game, then there's not much hope for Bryn Mawr. All sports programs lose money.

Other myths are similarly exposed. Shulman and Bowen's most striking findings involve the liberal arts colleges and elite universities that are supposed to be redoubts for serious student-athletes. The quaint image of the small college athlete as a pencil-necked scholar blessed with an above-average jump-shot proves misleading. During the 1950s, male athletes were fairly indistinguishable from their classmates; they were admitted on the same criteria, performed just as well academically, and had a wide variety of intellectual interests. A football player at Williams in 1951 was a typical Williams student, with a little extra giddy-up.

But today's small-college athlete isn't what he used to be. In 1951, male athletes averaged 36 points lower on the SAT than their classmates. By 1986 the gap had widened to 118. One of the many suspicions Shulman and Bowen confirm is that a unique ethos—a "jock culture"—has been institutionalized on campuses and has disturbingly changed the image of the student-athlete: "Those who play college sports have different expectations from the time that they entered college, different priorities in the classroom, and different views as alumni of what the priorities of college should be."

The Game of Life shows that both male and female athletes at all levels are outperformed by other students. Athletes at all levels have fewer and less rewarding relations with professors than non-athletes do. Their academic tastes incline heavily towards the social sciences—particularly political science and economics—and away from the

A Division III All-American football player at Wabash College in 1998, Matthew Rose is an editorial assistant at First Things.

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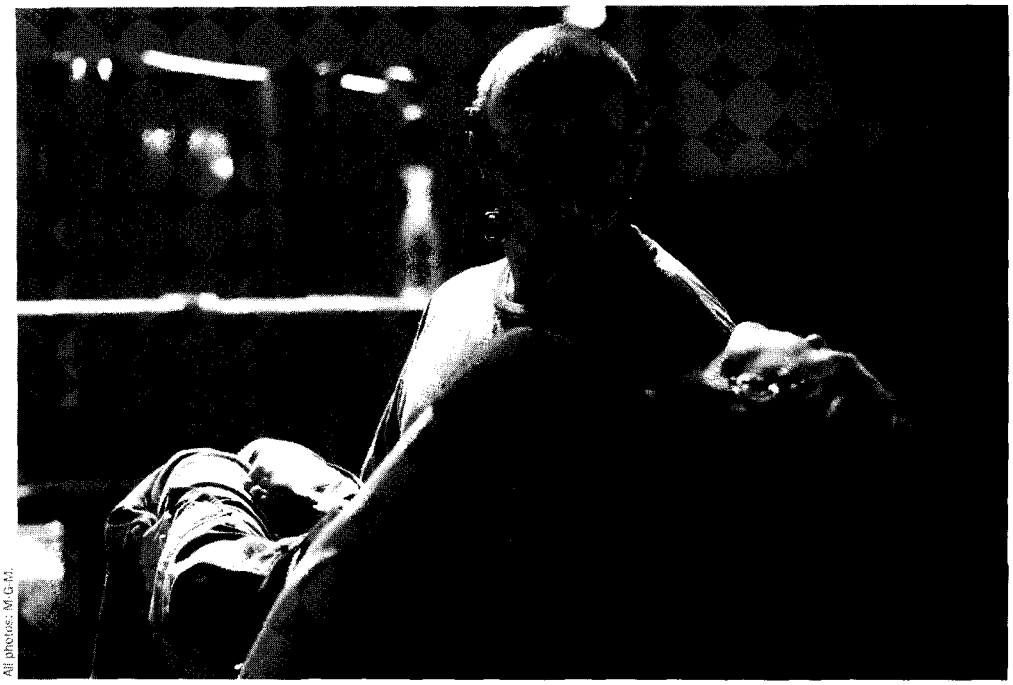
humanities. "Being well off financially" is deemed important by more athletes than non-athletes, and ex-athletes flock to the financial services after graduation. They have little interest in the not-for-profit sector and report low interest in research, the arts, the clergy, writing or doing doctoral work.

Indeed, that's only half the dismal story of college athletics today. Varsity athletes form 40 percent of the men at Williams College, but only 3 percent at Michigan—which one is the hearty jock-school again? It's the ectomorphic kids of Swarthmore, and not their corn-fed cousins at Iowa, who have 32 percent of the places in their class reserved for athletes only. If you want to go to college today, it's better to be good in the paint than good with paint, better a second-string goalie than a second-chair trombone. The director of admissions at Amherst College explains, "Here we are with 400 slots and I'm not just looking for a football player or a linebacker with scores that are acceptable, I'm looking for a left outside linebacker who can blitz."

Of course, college sports has never been a model of perfect sanity or thoughtful moderation. Theodore Roosevelt called an emergency White House meeting to discuss the situation after the 1905 football season resulted in the deaths of *eighteen* undergraduates. "Gentleman, you are about to play for Yale against Harvard in football. You will never do anything so important in your life again," a coach told his players, just before World War II began.

But there is nonetheless something about college athletics that needs to be affirmed—and the techniques of social scientists are not able to discover exactly what that is. Shulman and Bowen know this. They begin *The Game of Life* by admitting that they cannot battle "the power of myths," which is wisely to concede what we all intuitively know. Intercollegiate athletics is a shoddily run enterprise. Its events aren't cost-efficient, and its employees aren't what they could be. But, hidden underneath, there remains in college sports something about virtue that is still worth learning. ♦



All photos: M.G.M.

Home Cooking

Hannibal Lecter and the aesthetics of cannibalism.

BY MICHAEL LONG

One hesitates to burden entertainment with philosophical baggage. The great majority of moviegoers are wisely after the mindless pleasure of the thing. They don't want Kierkegaard's *Either/Or*. They want respite from worry, work, and the occasional screaming kid.

Yet some books and movies don't make sense without the baggage, and so it is with the newly released film *Hannibal*, made from Thomas Harris's novel of the same title. Issued in the spring of 1999, Harris's book was the publishing event of the year. Its forerunner, *The Silence of the Lambs*, was a well-received thriller that managed the difficult feat of transcending its own genre. And after it was made into an Oscar-winning film, its central character, Hannibal Lecter (brilliantly played by Anthony Hopkins), ascended to the ranks of instantly recognizable cultural phenomena.

It took a decade for Harris to bring forth a sequel, only his fourth book in twenty-five years. Given the popularity of *The Silence of the Lambs*, the author could have compiled his grocery lists and still sold books, but he did not take any easy way out. Harris, who despite his choice of subject matter writes an elegant prose, delivered an unexpectedly difficult novel, brimming with some of the wildest gore ever found in a mainstream release. The success of the film version of *The Silence of the Lambs* made a sure thing of the sequel, but Harris seemed to exploit that advantage by making his book hard to love.

In *The Silence of the Lambs*, a serial murderer is killing young women to skin them and assemble his own "woman suit." (The character incorporates elements of real-life Wisconsin serial killer Ed Gein, a figure whose story has been mined for years by numerous slasher movies.)

The FBI decides that the best chance to catch him is to interview the captured serial killer, Hannibal Lecter, a dapper psychiatrist with an almost otherworldly intellect. His interviewer is an FBI trainee, Clarice Starling. Lecter forces her to make a bargain:

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her personal remembrances in exchange for leads with which she might catch the killer.

Lecter is revealed to be quite a respectful gentleman, as psychopathic cannibal psychiatrists go: a cross between Tom Wolfe and an automated slaughterhouse. He reserves his violence for those who offend his sense of culture and beauty.

Complementing him, Starling turns out to be of humble background but possessed of an inchoate appreciation for beauty, which Lecter recognizes, enjoys, and exploits. In the end, Starling uses Lecter's insight to catch the killer, and the two assume an ironic relation of personal, mutual respect.

In *Hannibal*, Lecter is now a fugitive living it up in Florence, serving as curator of an ancient Italian library and indulging his taste less often for human flesh than for art, music, and gourmet food. Meanwhile, Clarice Starling is watching her once-promising FBI career slide into an abyss, courtesy of a scorned, lustful boss and the politically correct proclivities of the system.

On the hunt for Lecter, she realizes that the surest way to catch him is to follow his signal trait, his passion for culture and things beautiful. This study draws out and develops her own spark of taste. As an orphan who has gotten ahead only by following the rules, Starling doesn't take long to see that the pursuit of beauty is a more faithful and timeless occupation than service to the faithless suits who have iced her career.

In the end she rejects the FBI—and conventional morality itself—and joins up with Lecter—not as a killer per se, but as a friend and lover united with her former foe by what she now considers the highest calling: the commitment to beauty. Here she finds constancy greater than human systems offer; here is something that will never fail her because it comes from within.

The book is fantasy, of course. Lecter is preternaturally powerful and brilliant—his knowledge of Italian history and ancient dialects alone approaches the impossible. He is an expert in everything. He anticipates nearly every move against him; has planned for contingencies seemingly years in advance; is a connoisseur beyond reality of all things elegant. That Lecter and Starling end up as lovers in the end left many readers cold, yet the elevation of art above morality was the message of the book across every single page: Lecter thrives outside conventional morality; Starling grows stifled within it and must join him if she, too, is to thrive.

With some of the richest and most popular characters in recent fiction, the movie version of *Hannibal* should have been great entertainment. But it's not. Anthony Hopkins returns as Lecter, though the villain is not nearly so chilling out of his cage. (A man once driven to achieve freedom at any cost is far less threatening when reduced to knocking off a flautist to improve the sound of the local orchestra.) Julianne Moore takes over as Clarice Starling (a role for which Jodie Foster won an Academy Award in *The Silence of the Lambs*). This time around, though, Starling is written as—or maybe just edited down to—a single dimension, bounced from abuse to abuse. The examination of Starling's evolution, the thing that carried the book and the first film, is abandoned in favor of putting her in a few clichéd situations and showing her with a concerned look on her face.

The director Ridley Scott has failed to support his story. Characters run from scene to scene with little reaction

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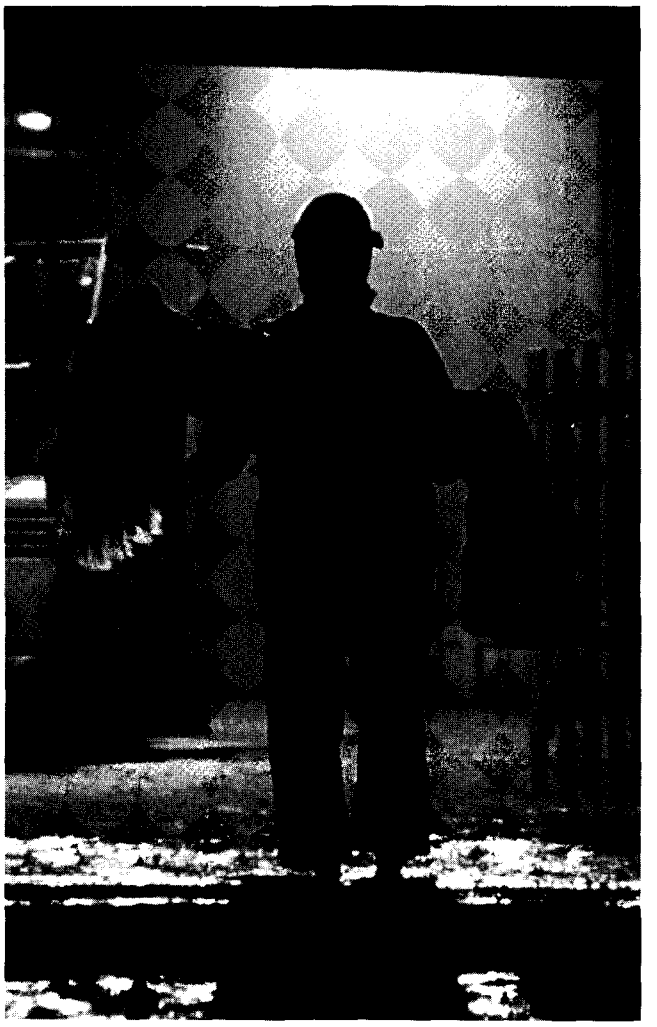
and even less motivation. The real people introduced in *The Silence of the Lambs* are replaced with caricatures in *Hannibal*: Lecter plays cat-and-mouse with his victims, Starling is a cookie-cutter cop, the bad guy who brings them together is one of those *Phantom of the Opera*-faced guys too bizarre to be believed (though, in the role, Gary Oldman makes pretty good use of some occasionally silly material). Without knowledge of the previous movie or the two books, there is almost no reason to care at all about any of these characters. (The exception is the police inspector in Florence played by the Italian actor Giancarlo Giannini. His long silences and wonderful, expressive face evoke more emotion than even the grisliest gore in the film.)

As disappointing as it is to spend eight bucks on a movie and not get your money's worth, it's also a pretty big letdown to see a mainstream book with such an interesting philosophical bent get its heart hacked out as a film. The key to the story comes when Starling begins her search for the cannibal—by taste, so to speak. The only things that Lecter will not deny himself are the finest things. By tracking the purchases of these rare items, Starling will narrow down Lecter's location.

But Starling's immersion in culture changes her. Forced to think like her enemy, she becomes like him (a theme chillingly explored in Harris's second novel, *Red Dragon*). The narrator observes, "The first step in the development of taste is to be willing to credit your own opinion." Understand this idea, and one understands the entire novel. As Starling begins to trust her judgment, she realizes she is just as smart as—in fact, superior to—the people she follows and the systems she trusts. This opens the door for her to create a private moral landscape—a region that Lecter has happily occupied for quite some time.

Hannibal thus becomes a story about a woman who experiences profound betrayal by the systems of government and society, and who comes to reject those systems in favor of taste—even if the cost is rejecting the moral code of the rest of the world. To drive home his point, Harris pours immorality into the cultured Hannibal Lecter. He leaves no doubt for the reader that the pursuit of beauty ought to matter more than morality; that it is among the highest callings. In this sense, he says, the best people can also be the worst people.



To set the paradox in high relief, the author portrays the conflict at its extreme. Who could be more immoral than a brutal serial murderer? And who could be more honorable than this elegant, erudite, and utterly consistent man with a superhuman appreciation for beauty? *Hannibal* is a ripping fantasy, far more than Harris's first two Lecter books. Also, of course, the extremes are what make the book a good read, if extreme shocks are your thing.

The movie could have lived up to the book had the filmmakers followed Harris through the territory he charted. For instance, in the climax of the book, Lecter offers up his lover's enemy as a dish served cold: He carves the still-conscious villain's brain into slices, sautés them, and serves them on a plate. But in the movie the scene is cut short, played solely for its shock value. Could a scene so repugnant have worked in a movie? Should it even have been considered at all? Maybe, maybe not. But this swapped-out ending betrays the source material, eviscerates the story, and renders meaningless what has come before. It takes a strong stomach to recognize the metaphor in the original image. It's not for everybody, and it may not be edifying for anybody—but it's what the author did. What is now in its place is patently inferior and ultimately nonsensical.

Devotion to beauty can exist without morality; morality can exist without beauty. That was Harris's point. He created a moral kaleidoscope in which the reader could make the case for either the danger of an immoral world or the colorlessness of an artless one. But without the delicious, squirm-inducing ambivalence of the book, the movie leaves us with a bloody fairy tale in which a serial murderer pursues his unrequited love for the woman who is trying to catch him. And that turns out to be a surprisingly weak tale. ♦

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Parody

Sesame Street Workshop, the nonprofit education organization that produces the *Sesame Street* television show, announced last week that it would lay off sixty employees in a cost-cutting move.
—*News item*

Rudy, Hill, Bill express shock

PAGE 4

Puffy, J. Lo: Still not dating

PAGES 5-12

NEW YORK POST

METRO EDITION

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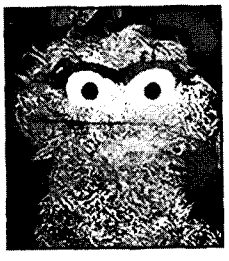
MUPPET MASSACRE!



Laid-off Oscar the Grouch rampages down Sesame Street

BIG BIRD = DEAD DUCK

"It's as easy as 1-2-3!" crazed furball shouts, amid puppet pandemonium

PAGE 3

'Temptation Island' stars react to Sesame Slaughter PAGES 13-35

Photos of Hillary Clinton and Big Bird: UPI/Corbis-Bettmann

the weekly Standard
FEBRUARY 26, 2001

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The Backlash against the Backlash

Diane Ravitch is a research professor, New York University; distinguished visiting fellow, Hoover Institution; and member, Hoover's Koret Task Force on K–12 Education.

In the year 2000, the biggest education story was the alleged "backlash" against standards-based reform. In the well-established tradition of "pack journalism," **the major media warned of a movement growing among parents and educators to curtail testing for promotion or graduation.** Sympathetic reporters told vivid stories about anguished students, distraught parents, and angry teachers who complained that the tests were unfair and that children were suffering because of the stress induced by state tests.

Time for a reality check. Three major surveys in the past eighteen months have shown that this portrait was simply untrue. There are certainly critics of state testing, and there are some state tests that are woefully inadequate and need to be improved. But the fact is that, by decisive numbers, the public, parents, and teachers understand the value of standards-based reform and remain committed to it.

The American Federation of Teachers released a Peter D. Hart survey of public schoolteachers and principals in August 1999. The survey reported that teachers endorse standards-based reform by 73 percent to 19 percent, as do 92 percent of principals. Sixty-six percent of teachers said that the implementation of standards in their schools had had a positive impact, as compared to 15 percent who judged their effect to be negative. Among teachers, the strongest support for standards came from those in urban schools and from black and Hispanic teachers.

In August 2000, the Business Roundtable released another public opinion survey that showed overwhelming support for standards-based reform among all groups, regardless of race, income, or political party. When asked whether students should be required to pass state tests before graduating from high school "even if they have passing grades in their classes," 65 percent of parents and 70 percent of the general public answered yes. Support was even higher (76 percent of parents and 81 percent of the public) if students were allowed to take the state exam several times, which in fact is the customary policy in most states.

In October 2000, the nonpartisan survey organization Public Agenda released a survey of public school parents, which again demonstrated solid backing for standards and testing. Large majorities of parents in big urban districts say that their local reforms have been carefully and reasonably implemented. Only about 10 percent thought that their children were getting too much homework or taking too many tests. Nearly 80 percent agreed that decisions about promotion should not be based on "just one test."

So, **despite the outpouring of media about a test backlash, it turns out that the public is not opposed to testing** and understands the value of testing for supplying information to parents and incentives to students. Parents want to know if their children are making progress. They don't want everything to ride on a single test, and they do want assurance that their children will get extra help if they need it. In this instance, parents show more common sense than the media who write about education. And, lest we forget, the public schools belong to the public.

— Diane Ravitch

Paid for by the Hoover Institution, Stanford University

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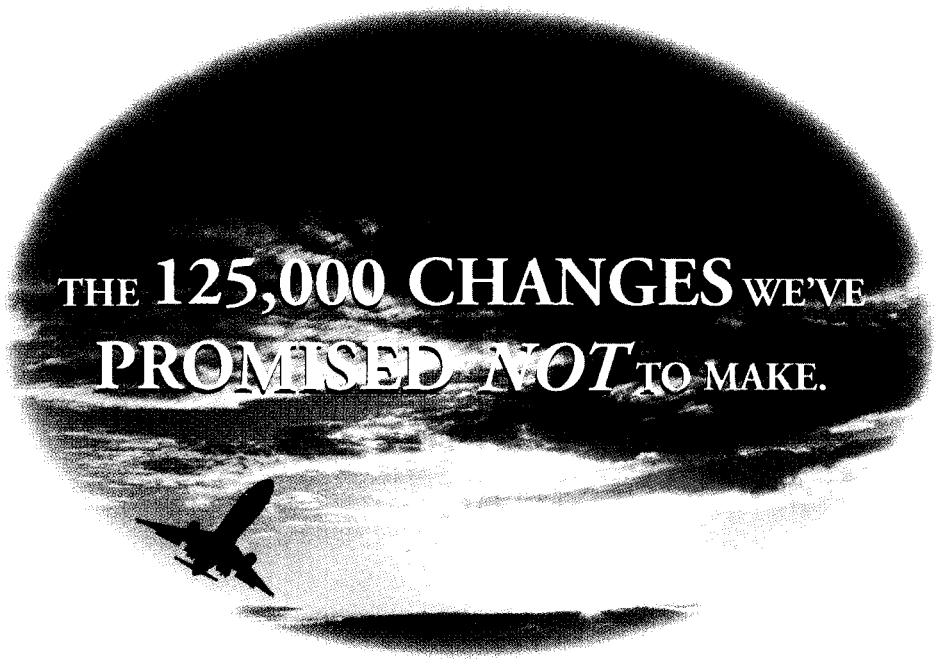
The Informed Traveler

5th *in a series*



Our proposed acquisition of US Airways will mean a lot of things will change for customers of both airlines—and we think for the better.

Like the additional choices that will come from over 500 more routes we'll offer travelers.

LOCKING IN FARES

It may also surprise you to learn that there are 125,000 things we've promised not to change—virtually every one of our "structure fares."

These include certain 14 and 21 day advance purchase fares as well as walk-up business fares for continental U.S. travel. No other airline has ever made a pledge like this before—to hold these fares constant for the next two years.*

We expect that network synergies resulting from our acquisition of US Airways could help us make some airfares even more attractive as we go forward.

COMPETITIVE REACTION

Given the competitive nature of the airline industry, we think other airlines may react to these fares.

We believe our proposed acquisition of US Airways makes a lot of sense for a lot of good reasons. Including 125,000 competitive airfares.

For more information, visit us at www.united.com.

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